

# Duluth



Nancy Harris, Mayor  
Jamin Harkness, Post 1  
Marline Thomas, Post 2

Lamar Doss, Post 3  
Manfred Graeder, Post 4  
Greg Whitlock, Post 5

**AGENDA  
MAYOR AND COUNCIL  
CITY OF DULUTH, GA  
3167 Main Street  
Duluth, GA 30096**

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**JANUARY 10, 2022**

**CITY HALL COUNCIL CHAMBERS**

**6:00 pm**

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***The leaders and staff of the City of Duluth are dedicated to ensuring that Duluth is:  
an Attractive Destination, a Quality Community, a World Class Government,  
and promotes a Sustainable Economic Environment.***

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**5:30 P.M. – AGENDA REVIEW** Council Chambers

**6:00 P.M. - CALL TO ORDER** Mayor Harris or Mayor Pro tem

***INVOCATION OR MOMENT OF SILENCE***

**PLEDGE OF ALLEGIANCE**

**I. ANNOUNCEMENTS**

1. AGENDA CHANGES (IF NECESSARY)
2. UPCOMING EVENTS – [www.duluthga.net/events](http://www.duluthga.net/events)

**II. CEREMONIAL MATTER**

1. OATHS OF OFFICE

Before entering the duties of office, the newly elected councilmembers shall take an oath before an officer duly authorized to administer oaths that he or she will truly, honestly, and faithfully discharge the duties of his or her office.

***PLEASE NOTE:*** This and other City meetings may be audio and/or videotaped for broadcast, transcription and/or archival purposes. As set forth in the Americans with Disabilities act (ADA) of 1990, the City of Duluth government does not discriminate on the basis of disability in the admission or access to or treatment of employment in its programs or activities, and complies with the requirements contained in section 35.107 of the Department of Justice regulations. All agenda packets may be converted to WCAG 2.0 compatibility format by emailing [agenda@duluthga.net](mailto:agenda@duluthga.net). In addition, any requests for reasonable accommodations required by individuals to fully participate in any open meeting, program, or activity of the City of Duluth government should be made seven days prior to the event. Direct inquiries to the ADA Coordinator in the City Clerk office, located at 3167 Main Street, Duluth, GA. 30096, or by telephone at 770.476.3434.

Honorable Judge Charles Barrett will administer the Councilmember oaths as follows:

- POST 1 Councilmember Charles Jamin Harkness
- POST 2 Councilmember Marline Thomas
- POST 3 Councilmember Kenneth Lamar Doss

### **III. MATTERS FROM CITIZENS**

*Maximum of five (5) minutes per person. Sign-up sheet available.*

### **IV. CONSENT AGENDA**

1. APPROVAL OF DECEMBER 4 & 13 MINUTES
2. RESOLUTION – 2022 MEETING DATES & TIMES

Approval of this item approves resolution R2022-01 to set and publicize regularly scheduled Mayor and Council meetings for 2022 in accordance with Georgia law.

3. ORDINANCE SETTING 2022 MILEAGE REIMBURSEMENT RATES

The IRS announced that the business standard mileage rate for transportation expenses paid or incurred beginning January 1, 2022 will be 58.5 cents per mile. In addition, the 2022 standard rate for miles driven for medical or moving purposes will be 18 cents per mile. Approval of this item adopts ordinance O2022-01 setting the reimbursement rates, effective January 1, 2022.

4. ORDINANCE TO APPOINT CITY SOLICITOR

Pursuant to the Duluth City Code, Section 2-208, the Mayor and Council are authorized to appoint a solicitor of the municipal court of the City. The solicitor shall be appointed by the Mayor and Council and shall serve at the pleasure of the Mayor and Council. The compensation of the solicitor shall be on an hourly basis and the rate shall be fixed by the Mayor and Council on an annual basis during the regular budget process. Before entering on the duties of office, the solicitor shall take an oath before an officer duly authorized to administer oaths that he or she will truly, honestly, and faithfully discharge the duties of his or her office. Approval of ordinance O2022-02 appoints Mr. Richard Armond as Solicitor of the Duluth Municipal Court as recommended by staff.

5. RESOLUTION TO APPOINT LEGAL ORGAN

Approval of this item approves resolution R2021-02 naming the "Gwinnett Daily Post" as the City's Legal Organ for 2022. This resolution shall not be construed to prevent the City from utilizing a newspaper of general circulation within the City of Duluth or Gwinnett County when authorized to do so by state or local law.

## 6. RESOLUTION – AUTHORIZING DEPOSITORIES & CHECK SIGNING

Approval of this item approves resolution R2022-03 regarding check signing authority and depositories as per the Financial Policy.

## 7. ORDINANCE TO AMEND DULUTH CODE – CHAPTER 3 ALCOHOL

As previously reported, HB 879 signed by the Governor required the Department of Revenue to develop and implement a state-wide, centralized application process for retail alcohol licensing. This new process ensures the applications, both for new businesses as well as renewals are sent simultaneously to the State and the Local Licensing Authority. This comprehensive approach to licensing will be managed through the Department of Revenue's streamlined portal, the Georgia Tax Center (GTC). The centralized alcohol licensing will be implemented in two phases, the first being initial licensing (new applications) which becomes effective January 12th. The second phase for "renewal licensing" is being developed and will become effective later this year. Currently the change will not affect any of our fee structures. In order for the City to comply with HB 879, the City Attorney met with staff and conducted a comprehensive review of the entire alcohol ordinance. Due to time constraints, staff notified the Alcohol Review Board of the necessity of bringing an amendment before the Council to be compliant with HB 879 by January 12. Several housekeeping items were also noted during the review with the City Attorney which are also part of this amendment, such as deletions of those sections the city no longer regulates (such as wine tastings in grocery stores, wine tasting rooms, etc). Approval of this item approves ordinance O2022-04 as presented.

## 8. ORDINANCE TO AMEND BUDGET - \$766,271 – MULTI-CORRIDOR LANDSCAPE

At the December 13th meeting of the Mayor and Council, approval was given to award the contract for landscaping along the shoulder of Pleasant Hill Road from the Chattahoochee River to McClure Bridge Road as well as the medians of Peachtree Industrial Boulevard from SR 120 to Sugarloaf Parkway in the amount of \$766,270.40 to Tri-Scapes Incorporated. As part of the bid award, staff is requesting approval of a budget amendment to add \$766,271 in unallocated 2017 SPLOST Transportation funds to this project. Approval of this item approves ordinance BA-FY22-24 to add \$766,271 in unallocated 2017 SPLOST Transportation funds to CD-77 Landscape Medians - Paved Streets - Infrastructure line item including associated transfers.

## 9. ORDINANCE TO AMEND BUDGET - \$2,475 – DAMAGE REIMBURSEMENT

In September, a tractor trailer driver was caught on video making a sharp turn into the parking lot behind Pure Taqueria which resulted in extensive damage to a pedestrian railing next to the entrance. Upon reviewing the video, the Duluth Police Department was able to contact the driver's employer, Sungor Transportation, Inc., who assisted the police in locating the driver prior to leaving Duluth. The trucking company contacted staff to request the claim be settled without going through insurance. Staff submitted an invoice for the damage to the company and received reimbursement of \$2,475 for the damage. The damaged railing has been repaired and the repair company paid. Staff is requesting \$2,475 be added back to

the budget line item where the repairs was paid from. Approval of this item approves ordinance (BA-FY22-25) to add \$2,475 to City Manager - City Manager's Office - General Emergency Repairs line item.

#### 10. ORDINANCE TO AMEND BUDGET - \$650,000 – WORKERS' COMPENSATION

In August 2021, Duluth Police Officer Rickey Porter was seriously injured in an auto accident while on duty. Recently, the City received the first of what is expected to be many medical bills related to this incident. The first bill totaled almost \$300,000, of what is expected to be a very costly overall claim. The City is covered by an Excess Workers' Compensation and Liability Policy and has a maximum exposure of \$650,000. Based on the serious injuries Officer Porter sustained in the accident, staff expects this claim will reach the maximum exposure. Council is asked to consider amending the Workers Compensation Fund budget for \$650,000. Approval of this item approves ordinance BA-FY22-26 to add Workers Compensation prior year reserves of \$650,000 to the Workers' Compensation - Risk Management - Claims Police Uniform line item.

#### 11. ORDINANCE TO AMEND BUDGET - \$5,100 – PINE NEEDLE TAP GRANT

In June 2021, staff requested and received \$50,000 in SPLOST funding to apply for a Transportation Alternative Projects (TAP) grant, based on a May project presentation to Council for pedestrian enhancement to Pine Needle Drive. The request was based on staff's best estimate of the time necessary to complete the application process. However, the estimate was slightly off and an additional \$5,100 in SPLOST funding is needed. It should be noted that staff has completed the application process and is awaiting a response to the grant request. Staff is requesting an additional \$5,100 in 2014 SPLOST funds be allocated to this project. Approval of this item approves ordinance BA-FY22-27 to add \$5,100 in 2014 SPLOST funds to Pine Needle Drive Pedestrian - Sidewalk & Crosswalks - Professional Services line item.

#### 12. ORDINANCE TO AMEND BUDGET - \$16,190 – HALL CIRCLE SEWER LINE

In August 2021, the City received a performance bond from DR Horton for \$56,675 regarding the installation of a sewer line from Gardendale through Hall Circle. Planning staff later determined DR Horton did not meet its obligations associated with the install and hired a third-party contractor, Southern Premier Contractors, Inc., to complete the installation. The cost to complete the installation was \$16,190.00. To recoup this cost, the City is entitled to reimbursement through the performance bond. The remaining funds will be returned to DR Horton. For this reason, staff is requesting approval of a budget amendment in the Stormwater Utility Fund, who contracted with the third party, to recognize revenue and expenditure of \$16,190. Approval of this item authorizes ordinance BA-FY22-28 to add \$16,190 to the Stormwater Utility Funds - Miscellaneous Revenue and a like amount to Stormwater Collection & Disposal - Repairs & Maintenance - Drainage line items.

## **V. PUBLIC HEARINGS**

### **1. ORDINANCE OF– CASE Z2021-003 SOUTHVINE MODIFIED REZONING**

The Mayor and Council to consider an Application (Z2021-003) from Southvine Homes LLC, on behalf of the property owner, Riversong Land Investments LLC, for the modified rezoning of a +/- 11.08-acre tract of land located in Land Lot 243 of the 7th District, Gwinnett County, consisting of tax parcel R7243-003. Said property is currently zoned PUD (Planned Unit Development District).

Approval of this item will allow for the modified rezoning of the subject property to PUD for the development and construction of a Single-Family Attached Dwelling residential development consisting of 51 townhouses and associated amenity areas.

The Duluth Planning Commission recommended approval of application Z2021-003 with conditions as presented by staff at the December 6, 2021 public hearing. Staff recommends approval of application Z2021-003 with conditions as detailed in the attached ordinance of rezoning. A detailed staff report and minutes from the Planning Commission are attached.

## **VI. NEW BUSINESS**

### **1. APPOINTMENT OF MAYOR PRO TEMPORE**

The Charter of the City of Duluth states the Mayor Pro tempore will be selected by a majority vote at the first regular meeting of the Mayor and Council in each year. The Council shall elect a council member to serve as the Mayor Pro tempore, who shall assume the duties and powers of the Mayor during the Mayor's absence. Mayor Harris will provide her recommendation for the appointment of the 2022 Mayor Pro tempore.

## **VII. MATTERS FROM DEPT HEADS/CITY ATTORNEY**

## **VIII. MATTERS FROM COUNCIL**

## **IX. MATTERS FROM CITY MANAGER**

## **X. EXECUTIVE SESSION**

It may be necessary to hold an executive session on Real Estate, Pending/Potential Litigation, or Personnel, which is properly excluded from the Georgia Open and Public Meeting Law (O.C.G.A. 50-14).

## **XI. ADJOURNMENT**

*The next scheduled meeting of the Mayor and Council is a work session for January 24, 2022 at 5:30 p.m.*



**MINUTES OF THE  
MAYOR AND COUNCIL  
CITY OF DULUTH, GA  
DECEMBER 4, 2021**

**PRESENT: Mayor Harris, Councilmembers Bomar, Thomas, and Whitlock, City Manager, Department Directors**

**Mayor Harris called the meeting to order at 4:00pm.**

**I. COMMUNITY CHAT**

The Mayor and Council took part in a community chat with the public to address new and upcoming projects such as the Rogers Bridge Project, plans for new restaurants as well as housing and business development.

**II. ADJOURNMENT**

The community chat adjourned at 5:00pm.

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Mayor Nancy Harris

ATTEST: \_\_\_\_\_  
Asst. City Manager/City Clerk



**DRAFT MINUTES OF THE  
MAYOR AND COUNCIL  
CITY OF DULUTH, GA  
DECEMBER 13, 2021**

**PRESENT: Mayor Harris, Council members Bomar, Thomas, Jones, Graeder, and Whitlock, City Manager, Department Directors, City Attorney**

A work session was held prior to the regular scheduled meeting to allow the elected officials to discuss this evening's agenda items. No other items were discussed, and no action was taken.

**Mayor Harris called the meeting to order at 6:00 p.m.**

**MOMENT OF SILENCE** *remembering victims of Kentucky tornadoes*

**PLEDGE OF ALLEGIANCE**

**I. ANNOUNCEMENTS**

1. AGENDA CHANGES (*none*)
2. APPRECIATION AND WELCOME

Mayor Harris thanked Council members Bomar and Jones for their many years of service to the City and noted that a reception would be held in the Community Room after the Council meeting where more formal appreciation and well wishes would be expressed. She also welcomed new Post 4 representative Manfred Graeder, who won the special election to fill the unexpired term of Kelly Kelkenberg.

3. UPCOMING EVENTS – [www.duluthga.net/events](http://www.duluthga.net/events)

The 2021 event season has concluded.

## **II. CEREMONIAL MATTER**

1. PROCLAMATION – RICK CASE BIKES FOR KIDS {A}

Mayor and Council presented a proclamation for "Bike for Kids" Day to Tammy Baker and other Rick Case representatives for December 13, 2021.

## **III. CONSENT AGENDA**

1. APPROVAL OF NOVEMBER 22, 2021 MINUTES
2. CERTIFICATION OF RESULTS – 2021 SPECIAL-CALLED RUNOFF ELECTION

Section 21-2.493(k) of the Georgia Election Code authorizes the Election Superintendent to certify the November 30 run-off election results. Approval of this item accepts the following results of the November 30, 2021 Run-Off Municipal Election for Post 4: Manfred Graeder - 460, Brandon P. Odum – 456.

3. AUTHORIZATION FOR CONTRACT – CITY MANAGER {B}

Approval of this item authorizes Mayor Harris to execute an amendment to the City Manager's Employment Agreement by amending Section 6 of the City Manager's contract, increasing the annual base salary to \$197,219 and extending the term of the contract until December 31, 2022.

4. ORDINANCE TO AMEND BUDGET – \$20,000 – ARPA FUNDING {C}

In July of this year, the City received its first installment funding from the State of Georgia under the American Rescue Plan Act (ARPA). Subsequently, the City entered into an Intergovernmental Agreement with Gwinnett County Department of Water Resources to use the ARPA funds to install sanitary sewer lines in the Pinecrest community and the Hill community. As part of the agreement our City Engineer is reviewing the design plans to determine feasibility and impacted properties. Staff is requesting \$20,000 be allocated to Professional Services to cover this cost. Approval of this item approve ordinance (BA-FY22-20) to add \$20,000 in federal American Rescue Plan Act funds to American Rescue Plan Act 2021 - New Sewer Services - Professional Services line item.

5. ORDINANCE TO AMEND BUDGET- \$2,900–FALLEN SOLDIER MEMORIAL {D}

Per Council's direction, a Fallen Soldier Memorial will be placed near the northwest lower-level entrance to City Hall. The area surrounding the memorial will require some landscape adjustments, seating, and lighting to highlight the statue and allow space for quiet contemplation. A concept design for the area will be done to allow for a more comprehensive planning and cost estimating process. The concept will include a rendering and a colored concept plan along with an estimate of probable cost. The cost for this effort is \$2,900. Approval of this item authorizes ordinance BA-FY22-21 to add Public Art Fund prior year reserves of \$2,900 to Public Art - Spectator Recreation - Professional Services line item.



6. ORDINANCE TO AMEND BUDGET - \$28,772 – VEHICLES {E}

Approval of this item authorizes an ordinance (BA-FY22-22) to amend the FY22 budget. Recently, the Police and Public Works Departments sold a vehicle and various pieces of equipment at auction, after commission and fees the City received \$15,742. In addition, the Police Department received an insurance settlement of \$13,030 for a police vehicle that was involved in an accident that our insurance carrier determined to be a total loss. Staff is requesting these funds be added to each department vehicle budgets to fund the purchase of new vehicles. \$7,541 to be added to the Public Works - Public Works Administration - Vehicles line item and \$21,231 and associated transfers to be added to the Police Vehicles - Consolidated Vehicle Maintenance - Vehicles line item.

7. ORDINANCE TO AMEND BUDGET – \$125,000 – PINE NEEDLE ROW {F}

Construction plans for the cul-de-sac project on Pine Needle Drive at SR 120 are underway and it is time for right-of-way acquisition. Six parcels are affected, and each property owner has been sent a formal letter explaining the impacts to their individual property and the process for property negotiations and easements prior to start of construction. The cost of the property and the cost of the acquisition (combined) is estimated at \$125,000. The City is responsible for 19% of this cost (\$23,750) and the County is responsible for 81% (\$101,250). Approval of this item approves ordinance (BA-FY22-23) to add revenue of \$101,250 to the Gwinnett County Grant line item, \$23,750 in unallocated 2017 SPLOST Transportation funds to the SPLOST 2017 line item, \$20,000 Pine Needle Improvements - Paved Streets - Professional Services line item and \$105,000 to the Pine Needle Improvements - Paved Streets - Land line item including associated transfers.

8. HEADCOUNT INCREASE – POLICE DEPARTMENT

A recent internal review of warrant entry procedures concluded that the function of entering warrants in the Georgia Criminal Information Center (GCIC) database should be conducted by an employee of the police department and not courts. Accordingly, approval of this item gives authorization to increase the position headcount for the police department to accomplish this change. There is no anticipated budget impact for FY 2022 relating to this change.

9. AUTHORIZATION FOR AD VALOREM TAX WRITE-OFF – CITY PROPERTY

The City recently purchased parcel #R7203-062 on Mason Drive. As part of the settlement, the City was given credit for both county and city property taxes. The City paid Gwinnett County taxes and the stormwater fees. Approval of this item authorizes the write off the taxes due to the City in the amount of \$321.26.

**A motion was made by Councilmember Thomas, seconded by Councilmember Whitlock, to approve the Consent Agenda as presented.**

**Voted For: Council members Bomar, Thomas, Jones, Graeder and Whitlock  
Motion carried.**

#### **IV. PUBLIC HEARINGS**

##### **1. ORDINANCE OF REZONING – CASE Z2021-004 – NORTH BERKELEY TOWER {G}**

Mayor Harris opened the public hearing.

Planning Director Bill Aiken came forward to present an application (Z2021-004) from National 360 LLC, on behalf of the property owner, Berkeley Point Associates LLC, for the rezoning of a +/- 15.99 acres of land located in Land Lot 261 of the 6th District, Gwinnett County, consisting of tax parcel R6261 130. The property is currently zoned PUD (Planned Unit Development District). Approval of this item will allow for the modified rezoning of the subject property to PUD for the development and construction of a mixed-used non-residential development consisting of the conversion of the existing 137,823sf, 7-story unfinished building to climate controlled indoor self-storage, +/- 96,000sf of additional mini storage, and +/- 71,000sf of flex office/industrial space.

Mr. Aiken showed the property location and described the surrounding uses. He provided history on zoning and prior plans for development in 2000 which were halted due to the last recession. Initial plans include office space, a hotel, parking deck, strip mall and bowling alley/arcade. In 2007, new plans were approved that included office/retail and removed the entertainment/arcade. He illustrated approved site plans and described the status of prior development progress.

As it stands today, the property is currently on the City's "Blighted Property" list. It has been deemed unsafe for human occupancy by the City's Building Official in 2020. There have been over 821 police or code compliance activities on the property since 2015. Mr. Aiken showed detailed photos of the many life and health safety issues present on the site. Over the past several years, planning staff has fielded numerous inquiries about multi-family and townhome projects on this site, which do not meet the spirit or intent of the City's Comprehensive Plan.

Mr. Aiken showed a new master concept for the subject property that outlines three phases of work, primarily for storage and flexible office options. The original plan was 358,000 square feet and the current proposed plan is 305,550 square feet. He showed elevations of the 7-story tower, the mini-warehouse, and the flex building. He explained that when a PUD is approved, such factors are included such as a development summary report with business uses, etc. and a master concept plan for the site plan that approves uses and intensities. Since it is such a significant change in what was previously approved, it then comes back to Council as a rezoning.

Mr. Aiken discussed the Comprehensive Plan Duluth 2040 and important factors such as Character Areas and Future Land Use Maps. This area is part of the North Berkeley Lake international village which is intended "to be a magnet for small and medium sized minority and internationally owned businesses targeting Duluth's diverse community." This area is very diverse in uses as it has apartments, townhomes, office, warehouse, major retail, industrial, distribution, etc.

The Future Land Use Map is a guiding document, and it indicates this area as industrial. The most significant reason for concern is to bring life back to this area, complementing the many other uses by bringing back warehouse, data centers, distribution sites, etc. rather than residential.

The Duluth Planning Commission voted to approve application Z2021-004 with conditions as presented by staff at the November 1, 2021 public hearing. Staff recommends approval with conditions. In general, the conditions regulate the operations, and plans, development standards, signage and lighting, existing buffers and landscaping, uses and intensities.

Mayor Harris called for discussion from Council.

Councilmember Graeder recused himself from discussion as he was previously on the Planning Commission when this item was considered and voted on.

Councilmember Bomar questioned the structural integrity of the building. Mr. Aiken confirmed the applicant has hired their own engineers and performed their due diligence. She was also concerned about the dumpsters and trash and how it would be screened.

Councilmember Whitlock asked about the layout of the office/warehouse buildings if they are facing out and having shared parking. He shared concern regarding what type of visibility concerns there would be with parking and storing large vehicles, and was also interested in knowing what kind of tenant would utilize this type of space. He also questioned a small roadway area connection to Phase II. Mr. Aiken discussed the vegetative and stream buffers and explained that a further approval of parking variance would require approval by the Zoning Board of Appeals.

Mayor Harris called the applicant forward to answer questions.

Mr. Yasir Khan of 2283 SW 58th Way, West Park, FL, 33023 came forward and explained that Phase II calls for a fairly wide drive aisle in front, and he felt sure they could accommodate if a buffer becomes an issue. These types of tenants for flex space are typically smaller tenants, with either a retail front or office front, with bays on ground level and don't need large receiving docks. He would estimate allocation at approximately 20,000 sf per tenant.

Mayor Harris called for questions/comments from the public.

Jennifer Beck of 3504 Willbrooke Way, Duluth came forward and asked about the 2040 plan, and the comment that was made about not looking at multi-family or workforce housing options.

Councilmember Bomar responded that Council has been investigating all types of housing needs for several years and there is a demand for it, but not in this area.

Being no further questions, the Mayor closed the public hearing and called for a motion.

**A motion was made by Councilmember Bomar, seconded by Councilmember Thomas, to approve ordinance O2021-38 as presented.**

**Voted For: Council members Bomar, Thomas, Jones, and Whitlock**  
**Abstaining: Council member Graeder**  
**Motion carried.**

2. ORDINANCE OF REZONING – CASE Z2021-005 – ROGERS BRIDGE {H}

Mayor Harris opened the public hearing.

Planning Director Bill Aiken came forward to present an application (Z2021-005) from Juan Ramos for the rezoning of his +/- 0.57 acres of land located in Land Lot 203 of the 7th District, Gwinnett County, consisting of tax parcel R7203 048. The property is currently zoned O-I (Office-Institutional District). Approval of this item will allow for the rezoning of the subject property to R-100 (Single-Family Residential) for the development and construction of a single-family detached dwelling unit.

He described the location of the property, showed the current state of the existing structure, and noted it is in the existing suburban residential Character Area. The buffer requirements would essentially prohibit an office building type of development due to size restriction.

Mr. Aiken displayed a survey which shows that the demolition and a proposed residential construction would meet the requirements of the R100 single-family designation without any additional entitlements or variances from the code required.

The Duluth Planning Commission voted to recommend approval of application Z2021-005 at the November 1, 2021 public hearing. Staff recommends approval.

Mayor Harris called for discussion from Council.

Councilmember Graeder recused himself from discussion as he was previously on the Planning Commission when this item was considered and voted on.

The Mayor called for questions/comments from the public.

There being none, Mayor Harris closed the public hearing and called for a motion.

**A motion was made by Councilmember Whitlock, seconded by Councilmember Bomar, to approve ordinance O2021-39 as presented.**

**Voted For: Council members Bomar, Thomas, Jones, and Whitlock**  
**Abstaining: Councilmember Graeder**  
**Motion carried.**

## V. NEW BUSINESS

### 1. AUTHORIZATION FOR SETTLEMENT AGREEMENT – FRIENDSHIP BAPTIST {I}

The Mayor and Council considered a settlement agreement with Friendship Baptist Church for the demolition of 3330 Church Street.

City Attorney Stephen Pereira explained that the City of Duluth filed a Nuisance Abatement Action in the City of Duluth Municipal Court alleging that the structure located at 3330 Church Street was an “unsafe structure” and failed to comply with numerous applicable Life Safety Code Requirements and Building Codes.

On October 4, 2021 the Duluth Municipal Court found that the structure on the subject property constituted a nuisance and ordered that the structure located on the subject property should be demolished and all debris removed within 30 days, and that if the structure was not demolished by the owner within 30 days that the City shall cause the structure to be demolished.

Friendship Baptist Church owns the property and is proposing to demolish the structure and clear the site by December 31, 2021. The attached settlement agreement identifies the terms and conditions in which the City would stay enforcement of the court order to allow the church to demolition the structure and clear the site.

**A motion was made by Councilmember Graeder, seconded by Councilmember Whitlock, to authorize the Mayor or City Manager to execute the settlement agreement as presented.**

**Voted For: Council members Bomar, Thomas, Jones, Graeder and Whitlock  
Motion carried.**

### 2. GEORGIA DOT SPEED ZONE ORDINANCE RENEWAL {J}

Georgia Department of Transportation (GDOT) has updated their speed zone ordinance in the City of Duluth and has asked the City to review and approve the listing. Public Safety staff reviewed the list and did not request any changes. They will need to have the ordinance approved by Mayor and Council so they can file it with the State prior to December 31, 2021. Approval of the speed zone ordinance allows the Public Safety Department to continue monitoring and enforcing speed limits throughout the City.

**A motion was made by Councilmember Thomas, seconded by Councilmember Bomar, to approve the Georgia Department of Transportation Speed Zone Ordinance as presented.**

**Voted For: Council members Bomar, Thomas, Jones, Graeder and Whitlock  
Motion carried.**

3. BID AWARD – DULUTH MULTI-CORRIDOR LANDSCAPING PROJECT {K}

On November 1, the City advertised for bids for the "Duluth Multi-Corridor Landscaping Project." This included landscaping along the shoulders of Pleasant Hill Road from the Chattahoochee River to McClure Bridge Road as well as the medians of Peachtree Industrial Blvd from SR 120 to Sugarloaf Parkway. On November 30, five bids were received as follows:

Brightview Landscaping	\$846,136.85
Ed Castro Landscaping	\$970,484.50
Georgia Green Landscaping	\$693,034.09
Mayer's Landscaping	\$793,745.47
Tri-Scapes	\$638,558.67

Staff reviewed the bid packages for completeness and checked references for the lowest bidder. Staff is requesting Council approve the award of this contract to Tri-Scapes, Inc. in the amount of \$638,558.67 with an additional contingency in the budget in the amount of 20%, \$127,711.73, to cover unforeseen circumstances/change orders and construction oversight. This total is \$766,270.40.

Councilmember Jones noted that a 10% contingency is typical, but there is 20% included for this contract.

**A motion was made by Councilmember Bomar, seconded by Councilmember Jones, to approve awarding the bid for the Duluth Multi-Corridor Landscaping Project to Tri-Scapes, Inc. in the amount of \$638,558.67 with a 20% contingency budget in the amount of \$127,711.73 and authorize the City Manager to execute the contract as presented.**

**Voted For: Council members Bomar, Thomas, Jones, Graeder and Whitlock  
Motion carried.**

## VI. MATTERS FROM COUNCIL

Councilmember Whitlock thanked staff for a wonderful *Deck the Halls* event.

Councilmember Jones announced that it has been an honor to serve on Council. He feels the strength of the City is the remarkable staff who have been committed to the goals and vision established by Council. He noted that the Council will be losing over 35 years of experience; however he felt that staff would be well-prepared to assist in the transition.

Councilmember Bomar echoed his sentiments and complimented the teamwork between Council and Staff to achieve the many accolades Duluth has earned in recent years.

Councilmember Whitlock commented that the Council's leadership has been a large factor in the success of staff's commitment and the community support as a whole.

## **VII. ADJOURNMENT**

**A motion was made by Councilmember Whitlock, seconded by Councilmember Thomas, to adjourn at 7:05pm.**

**Voting for: Council members Bomar, Thomas, Jones, Graeder, and Whitlock  
Motion carried.**

*The next scheduled meeting of the Mayor and Council is scheduled for  
January 10, 2022 at 6 pm in the City Hall council chambers.*

**RESOLUTION  
SETTING TIME AND PLACE OF  
REGULARLY SCHEDULED MEETINGS FOR YEAR 2022**

WHEREAS, The Mayor and Council of the City of Duluth desires to establish the time and place of its regular meetings for the 2022 calendar year in accordance with the requirements of Georgia Law.

NOW THEREFORE, the Mayor and Council of the City of Duluth hereby resolves that its regularly scheduled Council meetings for the 2022 year will be held on the 2nd Monday of every month at 6:00 p.m. in the Duluth City Hall Council Chambers located at 3167 Main Street, Duluth, Georgia; and

WHEREAS, Informal work sessions will be held prior to each scheduled Council Meeting at 5:30 p.m. in the Duluth City Hall Council Chambers or Main Street Conference Room located at 3167 Main Street, Duluth, Georgia, as well as additional work sessions after each regularly scheduled Council meeting when deemed necessary; and

NOW THEREFORE, Council Work Sessions will be held on the 4th Monday of every month at 5:30 p.m. in the Duluth City Hall Community Room, with exception of June 27th (Annual GMA Training) and December 26<sup>th</sup> (Christmas Holiday).

Fifth Monday Work Sessions are scheduled for January 31, August 29 and October 31, with the exception of Monday, May 30, cancelled due to falling on Memorial Day.

IT IS FURTHER RESOLVED THAT, other work sessions may be duly called as needed and properly noticed. All meetings are open to the public, and the Mayor and Council welcome and encourage attendance at these meetings.

IT IS SO RESOLVED, this 10th day of January, 2022.

\_\_\_\_\_  
Nancy Harris, Mayor

\_\_\_\_\_  
Charles Jamin Harkness, Post 1

\_\_\_\_\_  
Marline Thomas, Post 2

\_\_\_\_\_  
Kenneth Lamar Doss, Post 3

\_\_\_\_\_  
Manfred Graeder, Post 4

\_\_\_\_\_  
Greg Whitlock, Post 5

\_\_\_\_\_  
Teresa S. Lynn, City Clerk



**ORDINANCE  
TO AMEND THE PER DIEM, LODGING, TRAVEL,  
CREDIT CARD, AND OTHER EXPENSE MANAGEMENT**

**WHEREAS**, Section 2-47(2) of the City of Duluth Code of Ordinances authorizes travel reimbursement for employees or officers of the City to coincide with the Internal Revenue Service Guidelines for expenses incurred while attending training, meetings or events for approved city business;

**NOW THEREFORE**, the City Council of the City of Duluth hereby ordains as follows:

That beginning January 1, 2022, the reimbursement rates shall be 58.5 cents per mile for business use of personal vehicles, and medical mileage for the flexible spending account reimbursement plan shall be calculated at 18 cents per mile.

**IT IS SO ORDAINED THIS 10<sup>th</sup> DAY OF JANUARY, 2022.**

Those councilmembers voting in favor:

\_\_\_\_\_  
Nancy Harris, Mayor

\_\_\_\_\_  
Charles Jamin Harkness, Post 1

\_\_\_\_\_  
Marline Thomas, Post 2

\_\_\_\_\_  
Kenneth Lamar Doss, Post 3

\_\_\_\_\_  
Manfred Graeder, Post 4

\_\_\_\_\_  
Greg Whitlock, Post 5

ATTEST: \_\_\_\_\_  
Teresa S. Lynn, City Clerk

**ORDINANCE  
CITY OF DULUTH  
MUNICIPAL COURT SOLICITORS**

The Council of the City of Duluth hereby ordains:

That the following individuals be appointed as Municipal Court Solicitors of the Municipal Court of the City of Duluth and are authorized to serve in said positions unless a majority vote of Council removes such member(s) or until successors are appointed.

Mr. Richard Armond  
Assistant Solicitor to be appointed at a later date

**DULY ADOPTED this 10<sup>th</sup> day of January, 2022.**

\_\_\_\_\_  
Mayor Nancy Harris

Those councilmembers voting in favor:

\_\_\_\_\_  
Charles Jamin Harkness, Post 1

\_\_\_\_\_  
Marline Thomas, Post 2

\_\_\_\_\_  
Kenneth Lamar Doss, Post 3

\_\_\_\_\_  
Manfred Graeder, Post 4

\_\_\_\_\_  
Greg Whitlock, Post 5

Those councilmembers voting in opposition:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ATTEST: \_\_\_\_\_  
Teresa S. Lynn, Asst. City Manager/City Clerk

**RESOLUTION  
NAMING OF THE OFFICIAL NEWSPAPER**

The Council of the City of Duluth hereby resolves:

That the **Gwinnett Daily Post** be named the Official Newspaper for 2022 in the City of Duluth for the publishing of all legal documents that are required by law to be published. This resolution shall not be construed to prevent the City from utilizing a newspaper of general circulation within the City of Duluth or Gwinnett County when authorized to do so by state or local law.

**IT IS SO RESOLVED** this 10<sup>th</sup> day of January, 2022.

\_\_\_\_\_  
Mayor Nancy Harris

Those councilmembers voting in favor:

\_\_\_\_\_  
Charles Jamin Harkness, Post 1

\_\_\_\_\_  
Marline Thomas, Post 2

\_\_\_\_\_  
Kenneth Lamar Doss, Post 3

\_\_\_\_\_  
Manfred Graeder, Post 4

\_\_\_\_\_  
Greg Whitlock, Post 5

Those councilmembers voting in opposition:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

ATTEST: \_\_\_\_\_  
City Clerk, Teresa S. Lynn

**RESOLUTION  
REGARDING CHECK SIGNING/INVESTMENT AUTHORITY**

BE IT RESOLVED that First Citizens Bank, Wells Fargo Bank, The Piedmont Bank, The Renasant Bank, Peoples Bank and Trust, State Bank and Trust, Quantum National Bank, Flagstar Bank, Fifth Third, Chase, US Bank, East West Bank, GA Commerce Bank, Touchmark Nat'l Bank, Truist Bank, Iberia Bank, Bank of Ozarks, and Bank of America are hereby designated as depositories of the City of Duluth, a municipal corporation existing under the laws of the State of Georgia; and

BE IT RESOLVED that on all checking accounts, saving accounts, deposit or collection of accounts, reserve accounts, and certificates of deposit, money markets and that all drafts, checks, etc., drawn against any such accounts shall be signed by the following:

EITHER Mayor Nancy Harris or the Mayor Pro tem AND either Assistant City Manager/City Clerk Teresa S. Lynn or City Manager James Riker. It being the intent hereof to require the signature of both one elected and one appointed City official.

BE IT FURTHER RESOLVED that the renewal of any certificates of deposit or other deposit instruments must be accomplished by the same persons as identified herein above.

No person, either elected or appointed, shall have any authority to borrow in the name of the City of Duluth without an express written resolution authorizing each such loan transaction and granting specific authority to specific named elected and appointed officials to sign such notes on behalf of the City of Duluth.

DULY ADOPTED this 10th day of January, 2022.

\_\_\_\_\_  
Mayor Nancy Harris

Those councilmembers voting in favor:

\_\_\_\_\_  
Charles Jamin Harkness, Post 1

\_\_\_\_\_  
Marline Thomas, Post 2

\_\_\_\_\_  
Kenneth Lamar Doss, Post 3

\_\_\_\_\_  
Manfred Graeder, Post 4

\_\_\_\_\_  
Greg Whitlock, Post 5

ATTEST: \_\_\_\_\_  
Teresa S. Lynn, City Clerk

**ORDINANCE  
CITY OF DULUTH**

**WHEREAS**, the Mayor and Council of the City of Duluth desire to amend the alcohol ordinances of the City of Duluth to address changes in state law requiring on-line applications and to make other administrative changes to update the ordinances.

**NOW THEREFORE**, the Council of the City of Duluth hereby further ordains that Chapter 3 of the Duluth Code of Ordinances is hereby amended as set forth below:

**SECTION I:**

The Council of the City of Duluth hereby ordains that the Duluth Code of Ordinances is hereby amended by striking the definition of Wine or beer tasting room from Section 3-103 Definitions of Chapter 3 of the Code.

**Sec. 3-103. - Definitions**

~~***Wine or beer tasting room means a room that has a single means of ingress and egress in which a spirituous liquor retail establishment offers the sampling or tasting of wine or beer for educational or instructional purposes.***~~

**SECTION II:**

The Council of the City of Duluth hereby ordains that the Duluth Code of Ordinances is hereby amended to remove references to “written” applications and reports by striking said language from Section 3-201 of Chapter 3 of the Code as follows:

**Sec. 3-201. - Procedure for considering application.**

**The city clerk shall not consider any application for a license until the ~~written~~ application provided for herein shall have been made, the application fee paid, the plat required herein filed and the fingerprinting and investigation of all persons as required under this article is completed by the police department. The chief of police shall, upon completion of the investigation, file a ~~written~~ report of the results of such investigation, which report shall be attached to said application and form a part of the permanent city record. Upon the completion of all of the foregoing the application, together with all data, shall be submitted to the city clerk for consideration pursuant to this article.**

**SECTION III:**

The Council of the City of Duluth hereby ordains that the Duluth Code of Ordinances is hereby amended to amend citizenship requirements for alcohol licenses to comply with State Law by amending Section 3-203 of Chapter 3 of the Code as follows:

**Sec. 3-203. - Citizenship; residence requirements; corporate licensees.**

No license for the sale of alcoholic beverages shall be granted to any applicant who is not a citizen of the United States, **a legal permanent resident 18 years of age or older, or a qualified alien or nonimmigrant under the federal Immigration and Nationality Act, Title 8 U.S.C., 18 years of age or older lawfully present in the United States.**

Where the applicant is a corporation or other business entity other than an individual, any stockholder or principal owning more than a ten (10) percent financial interest must meet the requirements contained herein and, in the event any license provided for hereunder shall be issued, such license shall be issued in the name of the corporation or business entity and the principal stockholder or principal behind such business entity. If the applicant is a partnership, the requirements contained herein shall be met by all partners, whether general or limited partners.

**SECTION IV:**

The Council of the City of Duluth hereby ordains that the Duluth Code of Ordinances is hereby amended to remove references to "written" applications and reports, to update the code to comply with state law online licensing requirements and by removing requirements for the production of certain deeds by amending Section 3-204 of Chapter 3 of the Code as follows:

**Sec. 3-204. - Application; form; content; process; deposit.**

(a) All persons desiring to engage in the sale or distribution of alcoholic beverages within the city shall make a **written** application to the city clerk for such privilege upon the forms provided by the city clerk. The application shall include but shall not be limited to: the name and address of the applicant; the proposed business to be carried on; the name and address of the registered agent for service of process; the name and address of the manager; if a partnership, the names and addresses of the partners, and, if a corporation or other entity, the names and addresses of the officers and the names and addresses of all stockholders holding more than ten (10) percent of any class of corporate stock or more than a ten (10) percent financial interest in the business or in any other entity having a financial interest in the business. The applicant shall also disclose whether the applicant (its partners if a partnership; its officers, manager, and stockholders having more than ten (10) percent of any class of corporate stock if a corporation) has:

(1) Been convicted of or plead guilty or nolo contendere to any felony, misdemeanor, or a violation of any municipal ordinance within a period of five (5) years prior to the license application; and

(2) Has any interests in a license to sell spirituous liquors by the package at retail within the state. The application form and all data requested by the city clerk or the chief of police shall be subscribed by the applicant(s) under oath before a notary public or other officer authorized to administer oaths. Any untrue or misleading information contained in, or

material statement omitted from, an original, renewal or transfer application for a license shall be cause for the denial or revocation thereof.

The application form and all data requested by the city clerk or the chief of police shall be subscribed by the applicant(s) under oath before a notary public or other officer authorized to administer oaths. Any untrue or misleading information contained in, or material statement omitted from, an original, renewal or transfer application for a license shall be cause for the denial or revocation thereof.

(b) No license hereunder shall be issued to any applicant unless information is provided as required in the ~~written~~ application concerning the business location and building construction. The completed building or the proposed building shall comply with the ordinances of the city; regulations of the state revenue commissioner; the laws of the state; and all other pertinent laws. The proposed building shall also be subject to final inspection and approval when finished by the building inspector. Each building in which the business is to be located shall contain sufficient lighting so that the building itself and the premises on all sides of the building are readily visible at all times from the front of the street on which the building is located so as to reveal all of the outside premises of such building. All premises for which a license shall be issued shall afford therein adequate sanitary toilet facilities and shall be adequately illuminated so that all hallways, passageways and open areas may be clearly seen by the customers therein.

(c) Each applicant seeking a license under this section shall submit proof of ownership of the building in which the applicant will conduct its business. If the applicant is the owner of such building, the applicant shall provide a certified copy of the deed conveying ownership to the applicant. If the applicant is not the owner of such building, the applicant shall provide a copy of the current lease, ~~in addition to a certified copy of the deed conveying ownership to the current owner of the building.~~

(d) Each applicant surveyor shall, upon request by the city clerk, submit a survey by a registered land surveyor showing compliance with all distance requirements contained herein. If the business address location was licensed at any time during the twelve (12) months immediately preceding the filing of the new alcohol application, the location is grandfathered and a new survey is not required.

(e) ~~All applicants granted a license under this chapter shall promptly make an application for the applicable state alcohol sales license necessary to carry out their business.~~ A license granted under this chapter is expressly contingent upon the licensee obtaining and maintaining an appropriate state alcohol sales license.

(f) In the case of corporate or limited partnership applicants, the applicant must be a business in good standing with the Secretary of State of Georgia.

(g) Each application for a license under this article shall be accompanied by ~~a certified check or cash for the full amount of the license fee in accordance with the scale fixed by the city council, together with a separate certified check or cash in the amount~~ payment of an

administrative fee in the amount of two hundred fifty dollars (\$250.00) ~~payable to the city and shall be paid over to the clerk of the city who shall note the payment of such investigative fee upon the original application for such license.~~ The fee provided for herein is to be used to defray the investigative and administrative costs and expenses of investigating and considering the application. If the application is denied and the license refused or if the applicant withdraws his application after submission to the city clerk, the fee provided for herein shall not be refundable. ~~However, the license fee (without interest) shall be refunded.~~ Any request to amend any provision of a license granted under this article is subject to an additional one hundred fifty dollar (\$150.00) investigative fee.

(h) Each application shall contain a certification stating that the applicant (its partners if a partnership; its officers, manager, and stockholders having more than ten (10) percent of any class of corporate stock if a corporation) and registered agent have read this article.

~~(i) In the event the applicant is denied a license by the state, the license fee (without interest), but not the investigative fee, shall be refunded.~~

(i) Upon notice by the City Clerk of the approval of the application for a license, an applicant shall have thirty (30) days to provide payment of the full licensing fee for the respective license(s) approved by the City Clerk.

(j) The city shall require not less than fifteen (15) nor more than thirty (30) days for processing any application for license permitting the sale of alcoholic beverages for consumption on the premises after a complete application, including all additional information requested, has been submitted.

#### SECTION V:

The Council of the City of Duluth hereby ordains that the Duluth Code of Ordinances is hereby amended to revise the criteria for selecting alcohol awareness training providers by amending Section 3-216 of Chapter 3 of the Code as follows:

#### Sec. 3-216. - Alcohol awareness training program.

(a) The city clerk or his/her designee will determine which alcohol awareness training program(s) are authorized to satisfy an applicant's training requirements as set out in this chapter or whether the city will undertake to provide the training.

(b) In order for any private organization or company to be approved as an authorized alcohol awareness training program for purposes of this chapter an entity must **provide a training program specific to the City of Duluth Code of Ordinances as well as state law and regulations.**

~~(1) Operate as a not for profit organization and be incorporated or authorized to do business by the Secretary of State of Georgia as a not for profit organization.~~

~~(2)~~



**(c) In determining whether to authorize an alcohol awareness program to provide required training under this chapter the city clerk or his/her designee should consider the following factors:**

- (1) Flexibility and frequency of training schedule;**
- (2) Training opportunities for non-English speaking applicants;**
- (3) Price charged to applicants;**
- (4) Reputation and experience.**

**(d) In the event that the city clerk or his/her designee determines that there are no groups that meet the city's alcohol awareness training needs the city clerk and/or city manager are authorized to have the training requirements of this chapter performed by staff.**

**SECTION VI:**

The Council of the City of Duluth hereby ordains that the Duluth Code of Ordinances is hereby amended to amend citizenship requirements for alcohol licenses to comply with State Law by amending Section 3-220 of Chapter 3 of the Code as follows:

**Sec. 3-220. - Considerations for granting a license permitting the sale of alcoholic beverages.**

**(a) The sale of alcoholic beverages provided for by this article is purely a privilege and the city clerk shall have discretionary powers to grant or refuse to grant any such application for license hereunder; however, it shall be proper for the city clerk to consider the following matters in connection with any application for license hereunder, which considerations are deemed to be in the public interest and welfare, as follows:**

- (1) That the applicant for a license for retail sales or consumption on the premises is related to any distributor or wholesaler of alcoholic beverages or employees thereof within the first degree of consanguinity or affinity as computed according to the laws of the state;**
- (2) That the applicant for a wholesaler license is related to any retailer of alcoholic beverages or employees thereof within the first degree of consanguinity or affinity as computed according to the laws of the state;**
- (3) That the applicant, or any person having a direct or indirect beneficial interest in the issuance of the license, has had any license issued by the city or by any other city in the state, or by any other licensing authority in the state relating to the manufacture, distribution or sale of alcohol or malt beverages suspended within the past five (5) years or revoked within the past ten (10) years;**
- (4) That any applicant for a license to sell spirituous liquor or package beer and wine is related to any distributor or wholesaler of alcoholic beverages or employees thereof within the first degree of consanguinity or affinity as computed according to the laws of the state;**

- (5) That any applicant for a license to sell spirituous liquor or package beer and wine, or any person having a direct or indirect beneficial interest in the issuance of the license, has had any license issued by the city or by any other city in the state, or by any other licensing authority in the state relating to the manufacture, distribution or sale of alcohol or malt beverages suspended within the past five (5) years or revoked within the past ten (10) years;
- (6) That the applicant or any person owning a direct or indirect beneficial interest in the license for which application is made does not have sufficient mental capacity to conduct the business for which the application is made, or who has been dishonorably discharged from the armed services of the United States, or fails to demonstrate financial stability;
- (7) That the applicant is not twenty-one (21) years of age or older;
- (8) That the applicant is not a citizen of the United States ~~or an alien lawfully permitted for permanent residence;~~ a legal permanent resident 18 years of age or older, or a qualified alien or nonimmigrant under the federal Immigration and Nationality Act, Title 8 U.S.C., 18 years of age or older and lawfully present in the United States.
- (9) The location of the premises from which the proposed sale of alcoholic beverages shall be conducted does not meet the distance restrictions;
- (10) That any licensee, owner, or manager has not obtained a valid alcohol handling permit as required by this chapter;
- (11) Failure to meet any other criteria specified by this article;
- (12) The applicant's reputation, character, mental and physical capacity to conduct the business proposed to be conducted;
- (13) That applicant, or any person who shall have a direct or indirect beneficial interest in the license, as a previous holder of a license to sell any type of alcoholic beverages has been found to have violated any law, regulation or ordinance relating to such business within a ten-year period, immediately preceding the date of the application for license hereunder;
- (14) If applicant is a previous holder of a license to sell any type of alcoholic beverages, the manner in which he or she conducted the business under such license and as to the necessity for any unusual police observation and inspection of such prior business in order to prevent the violation of any law, regulation or ordinance relating to such business;
- (15) If applicant has had a prior license, whether or not any such prior license for the sale of any type of alcoholic beverages has been previously suspended or revoked or whether or not hearings have been held for the revocation or suspension of any such license regardless of whether or not any such license was revoked or suspended as a result of such hearing;
- (16) The location of the premises from which the proposed sale of alcoholic beverages shall be conducted;

(17) That corporate or other business entity applicants are of bad business reputation;

(18) That applicant, or any person who shall have a direct or indirect beneficial interest in the license, has had any city license revoked within two (2) years prior to the filing of the application;

(19) Any other matters which the city clerk in his/her sole discretion, may choose to consider;

(20) That the facility where the business entity applicants propose to sell alcoholic beverages does not meet city zoning requirements.

(b) All applicants for any alcoholic beverage license must be of good character, and all operators, managers, clerks, or other employees shall be of like character.

(c) A license may be denied to any applicant for any alcoholic beverage license where it appears that the applicant would not have adequate financial participation in the proposed business to direct and manage its affairs, or where it appears that the application is intended to be a mere surrogate for a person or persons who would not otherwise qualify for a license for any reason whatsoever.

(d) The city clerk has discretionary authority to consider any extenuating circumstances which may reflect favorably or unfavorably on the applicant, application, or the proposed location of the business. If in the judgment of the city clerk circumstances are such that granting the license would not be in the best interest of the general health, safety, and public welfare, such circumstances may be grounds for denying the application.

(e) All decisions of the city clerk ~~either approving or~~ denying a license application shall be stated in writing and a copy of such statement shall be provided to the applicant either personally or by certified mail.

(f) Whenever the city clerk shall deny an application for a license permitting the sale of alcoholic beverages for consumption on the premises, the applicant shall be notified of the right to a hearing under this article upon timely application.

## **SECTION VII**

The Council of the City of Duluth hereby ordains that the Duluth Code of Ordinances is hereby amended to remove licenses for educational or instructional tastings by amending Section 3-250 of Chapter 3 of the Code as follows:

### **Sec. 3-250. - License permitting the sale of alcoholic beverages on the premises for consumption on the premises.**

~~(a) No alcoholic beverages shall be sold for consumption on the premises or distributed for educational or instructional purposes in a wine and malt tasting room except under a license granted by the city clerk, as provided in this article.~~

**(b) No license permitting the sale of alcoholic beverages for consumption on the premises shall be granted unless such person, business or proposed business falls under one (1) of the following categories, in accordance with the definitions and regulations set forth in this chapter:**

**(1) Restaurant.**

**(2) Tavern.**

**(3) Brewpub.**

**(4) Private club.**

**(5) Special events facility.**

**(6) Performing arts facility.**

**(7) Hotel.**

**(8) Lounge.**

**(9) Indoor commercial recreational establishment.**

**(10) Golf course.**

**(11) Alcoholic beverage caterer.**

**(12) Growler sales.**

**(13) Grocery store.**

**(14) Ancillary alcohol sales.**

**(15) Temporary special event.**

**(16) In a brewery, provided that only beer and malt beverages are sold and such establishment meets all requirements of O.C.G.A. § 3-5-24.1.**

**(17) Wine bar.**

**(c) No license permitting the sale of alcoholic beverages for consumption on the premises shall be granted unless the business or proposed business is located in the CBD, HC-R, HC-A, C-2, M-1 or M-2 zoning classifications or in a planned unit development with an underlying zoning of CBD, HC-R, HC-A, C-2, M-1 or M-2 or where in a planned unit development where expressly permitted through a condition of zoning. Licenses for performing arts facilities shall not be granted unless such facility is located in the CBD zoning classification and has obtained a special use permit to operate as a performing arts facility. A license shall only be granted for a business that is a permitted use in its particular zoning district. No license shall**

be granted to any business which operates as an adult entertainment establishment as set forth in article XIV of [chapter 7](#) of this Code.

### **SECTION VIII**

The Council of the City of Duluth hereby ordains that the Duluth Code of Ordinances is hereby amended to change the time for caterers to submit an application for a special event license by amending Section 3-260 of Chapter 3 of the Code as follows:

#### **Sec. 3-260. - Alcoholic beverage caterers.**

**(a) License requirements for resident caterers shall be the following:**

**(1) Any resident caterer who possesses a valid license from the city to sell or otherwise dispense malt beverages, wine or distilled spirits by the drink at a fixed location within the city may apply for an off-premises permit authorizing sales at authorized catered events or functions.**

**(2) Each off-premises catering permit, authorized herein, shall be valid only for the event for which the license is issued. The fee for each license shall be set by resolution of the city council, and this fee amount shall remain in effect until modified or amended by subsequent resolution adopted by the city council. It shall be unlawful for any person to engage in, carry on, or conduct the sale or distribution of alcoholic beverages off-premises and in connection with a catered event or function without first having obtained a permit and paid a permit fee of fifteen dollars (\$15.00) per event as provided herein. Excise taxes are imposed upon the sale of alcoholic beverages by a resident caterer as provided in article IV of this chapter.**

**(b) License requirements for nonresident caterers.**

**(1) A nonresident alcoholic beverage caterer shall submit an application for an off-premises event permit to the city clerk. The fee for each such permit shall be fifty dollars (\$50.00) as authorized by O.C.G.A. § 3-11-3, or such fee as may be authorized by any future amendment or revision thereto. Excise taxes are imposed upon the total of individual alcoholic beverage drinks served by a nonresident caterer in the amounts set forth in article IV of this chapter and shall be paid within thirty (30) days after the conclusion of the catered event or function.**

**(2) Permit requirements for resident and nonresident caterers.**

**Applications must be submitted at least ~~three (3)~~ five (5) days prior to the planned catered event. An application for an event permit shall include the name of the caterer, the date, address, time, and name of the event and the quantity and type of alcoholic beverages to be transported from the licensee's primary location to the location of the authorized catered event or function.**

**(c) Generally applicable requirements for caterers.**

**(1) While transporting alcoholic beverages in connection with an authorized catered event, the licensee or the employee of the licensed alcoholic beverage cater shall have in their possession:**

- a. A copy of the caterer's valid state alcoholic beverage license;**
- b. A copy of the caterer's valid local alcoholic beverage catering license;**
- c. A copy of the caterer's valid local alcoholic beverage catering event permit.**

**(2) Employees of licensed caterer must be twenty-one (21) years of age or older in order to handle alcoholic beverages at any authorized catered event. It shall be unlawful for a licensed alcoholic beverage caterer to distribute, sell, or otherwise dispense alcoholic beverages off-premises except as authorized by the event permit.**

**(3) A licensed alcoholic beverage caterer may sell or otherwise dispense only that which is authorized by his alcoholic beverage license. For example, if the alcoholic beverage caterer possesses a valid license to sell malt beverages, he may sell or otherwise dispense only malt beverages at the authorized catered event or function.**

**(4) Except as set forth above in this section, an off-premises permit holder must comply with all other provisions set forth in this chapter.**

**(5) No catering permit shall be issued without evidence that the applicant caterer has general liability insurance in an amount of at least one million dollars (\$1,000,000.00) to cover their catering activities.**

## **SECTION IX**

The Council of the City of Duluth hereby ordains that the Duluth Code of Ordinances is hereby amended to remove licenses for wine, beer and malt beverage tastings by deleting Section 3-282 of Chapter 3 in its entirety.

### **~~Sec. 3-282.- Wine, beer, and malt beverage tasting licenses in grocery stores.~~**

**~~(a) A grocery store holding a package beer and wine license shall be eligible for a wine, beer and malt beverage tasting license to provide samples of wine, beer and malt beverages offered for sale to customers under the conditions set forth in this section.~~**

**~~(b) Wine, beer and malt beverage sampling shall be on limited occasions when a customer requests a sample of a wine, beer or malt beverage offered for sale within the premises, or in conjunction with education classes and sampling designed to promote wine, beer and malt beverage appreciation and education.~~**

**~~(c) Wine, beer or malt beverage tasting for customers shall be conducted only at a counter area constituting no more than ten (10) percent of the entire floor area of the premises.~~**

~~(d) Such sampling for customers shall be limited to no more than one (1) time per day, on the days of the week authorized by state law to sell beer and wine by the package, for a period of not to exceed two (2) consecutive hours. Samples shall not exceed two (2) ounces, and no customer shall consume more than eight (8) ounces in any two-hour period; and~~

~~(e) The holder of a wine, beer and malt beverage tasting license may conduct educational classes not to exceed two (2) consecutive hours. All conditions of sampling set forth in this section shall apply to such classes, except for the limitation on floor areas where the classes can be conducted.~~

~~(f) Wine, beer and malt beverage bottles shall be opened by the licensee or an employee only, and samples shall be poured only by the licensee and/or an employee.~~

~~(g) No open containers of wine, beer or malt beverage shall be removed from the licensed premises.~~

~~(h) Holders of a tasting license of wine, beer and malt beverage tasting license shall not charge for samples or tastings, but may accept donations for a charitable organization of their choice.~~

~~(i) Such sampling and tasting is permitted within the enclosed portion of the premises only.~~

## **SECTION X**

The Council of the City of Duluth hereby ordains that the Duluth Code of Ordinances is hereby amended to remove licenses for Specialty Gift Shops by deleting Section 3-283 of Chapter 3 in its entirety.

### **Sec. 3-283. – Specialty gift shop licenses.**

~~(a) Notwithstanding any other provision of this article to the contrary, limited exceptions from this article shall exist for the owners of specialty gift shops provided that the owner obtains a specialty gift shop alcohol license as hereinafter provided; and the only sale of alcohol by the owner is through the sale of gift items as specified and not for consumption on the premises. These exceptions are as follows:~~

~~(1) In lieu of section 3-204(h) (application fee), subsection (b) of this section shall apply to applications for specialty gift shop licenses;~~

~~(2) Section 3-211 (distance from schools, churches, residences, etc.), subsections (a) (private residences), (b) (churches), (c) (public libraries), and (f) (another licensee) shall not apply for specialty gift shops.~~

~~(b) Each application for a specialty gift shop license under this article shall be accompanied by a certified check or cash for the full amount of the license fee in accordance with the scale fixed by the city council, together with a separate certified check or cash in the amount of one hundred dollars (\$100.00) payable to the city and shall be paid over to the clerk of the~~

~~city who shall note the payment of such application fee upon the original application for such license. The application fee provided for herein is to be used to defray the investigative and administrative costs and expenses of investigating and considering the application. If the application is denied and the license refused or if the applicant withdraws his application after submission to the city clerk, the application fee provided for herein shall not be refundable, however, the license fee (without interest) shall be refunded.~~

~~(c) Notwithstanding any other provision of this chapter, an employee who sells any gift item containing alcohol must be at least eighteen (18) years of age.~~

~~(d) Except as set forth above in this section, a specialty gift shop alcohol licensee must comply with all other provisions set forth in this chapter.~~

## **SECTION XI**

The Council of the City of Duluth hereby ordains that the Duluth Code of Ordinances is hereby amended to clarify that delivery of alcohol is prohibited except as specifically provided in Section 3-113 by amending Section 3-306 of Chapter 3 as follows:

### **Sec. 3-306. - Sale or delivery off premises.**

It shall be unlawful for any licensee of a retail establishment permitted to sell liquors hereunder to make deliveries of any alcoholic beverages by the package beyond the boundaries of the premises covered by the license, **except as expressly provided for in Section 3-113.**

## **SECTION XII**

The Council of the City of Duluth hereby ordains that the Duluth Code of Ordinances is hereby amended to remove licenses for Wine Tasting Rooms by deleting Section 3-307 of Chapter 3 in its entirety.

### **Sec. 3-307. - Wine tasting rooms.**

~~(a) A wine tasting room for purpose of this chapter shall be limited to entities possessing:~~

~~(1) A duly issued package license (package store); and/or~~

~~(2) A duly issued retail wine license, as defined in chapter 3 of the Duluth Code.~~

~~Entities possessing a license for consumption on the premises shall not be eligible for a wine tasting room permit.~~

~~(b) No wine tasting shall be conducted on the premises of any place of business licensed to sell distilled spirits in the unbroken container. Any wine tasting occurring on the premises of a business possessing a retail wine license shall be limited to a confined area with single means of ingress and egress into such area. The applicant's proposed measures to segregate~~



~~the wine tasting area along with proposed staffing and oversight shall be submitted to and approved by the city clerk.~~

~~(c) An eligible licensee may petition the city for a wine tasting room license provided it meets all present requirements of the city's alcohol beverage ordinance and presently maintains a valid package store license and/or retail wine license. A wine tasting room license shall allow the license holder to offer or sell wine samples only if offered or sold in connection with an instructional or educational promotion.~~

~~A wine tasting room license is intended to allow such activity on a limited basis and shall not be part of the core operations of such establishment or occur on a daily basis. A wine tasting room license shall be subjected to all other laws, rules and regulations of the city and state, including rule 560-2-5-05 of the department of revenue, alcohol and tobacco division, and is subject to license revocation for violation thereof.~~

~~(d) Said tasting room license need only be applied for once and shall automatically renew when said retail package store/retain wine license is renewed, provided, however, that the city may revoke or suspend such tasting room license and/or impose such conditions on its operation at~~

~~the city's discretion for violations of this Code or in furtherance of the health, safety, and welfare of the city's inhabitants.~~

### **SECTION XIII**

The Council of the City of Duluth hereby ordains that the Duluth Code of Ordinances is hereby amended to update fees for licenses and applications by amending Sec. 3-335 of Chapter 3 as follows:

#### **Sec. 3-335. - Classification of licenses; fees.**

The licenses listed below are the only licenses authorized to be issued by this article and each such license is a separate and distinct license and shall require the payment of separate license fees as provided for in this chapter. The fee for an alcohol handling permit shall be seventy dollars (\$70.00) and ten dollars (\$10.00) per additional handling permit or for a replacement of a lost permit. The types of licenses, the restrictions on the issuance of each, and the fees for such licenses are as follows:

(1) License permitting the sale of alcoholic beverages for consumption on the premises, three thousand five hundred dollars (\$3,500.00).

(2) License permitting the sale of malt beverages and wine only, for consumption on the premises, one-thousand dollars (\$1,000.00).

(3) License permitting the sale of wine only, for consumption on the premises, five hundred dollars (\$500.00)

- (4) License permitting the sale of malt beverages only, for consumption on the premises, five hundred dollars (\$500.00).**
- (5) License permitting the sale of malt beverages and wine only for consumption through outdoor golf course sales, one hundred fifty dollars (\$150.00). Note that this license requires that the licensee also hold a license described in subsection (1) or subsection (2) above.**
- (6) License permitting the sale of malt beverages and wine for consumption on the premises, and manufacture or brewing of beer for retail consumption on the premises and solely in draft form through operation of a brewpub, two hundred fifty dollars (\$250.00). Note that this license requires that the licensee also hold a license described in subsection (1) or subsection (2) above.**
- (7) License permitting the sale of alcoholic beverages only for consumption off the premises by a licensed alcoholic beverage caterer, one hundred fifty dollars (\$150.00) and fifteen dollars (\$15.00) per event. Note that this license requires that the licensee also hold a license described in subsection (1) above.**
- (8) License permitting the sale of malt beverages and wine only for consumption off the premises by a licensed alcoholic beverage caterer, one hundred dollars (\$100.00) and fifteen dollars (\$15.00) per event. Note that this license requires that the licensee also hold a license described in subsection (1) or subsection (2) above.**
- (9) License permitting the sale of alcoholic beverages only for consumption through indoor commercial recreational establishment sales, seven hundred fifty dollars (\$750.00). Note that this license requires that the licensee also hold a license described in subsection (1) above.**
- (10) License permitting the sale of malt beverages and wine only for consumption through indoor commercial recreational establishment sales, five hundred dollars (\$500.00). Note that this license requires that the licensee also hold a license described in subsection (2) above.**
- (11) License permitting the sale of alcoholic beverages for consumption on the premises for a special events facility, one thousand five hundred dollars (\$1,500.00).**
- (12) License permitting the sale of malt beverages and wine for consumption at a special event by special events vendor, one hundred fifty dollars (\$150.00).**
- (13) License permitting the sale of malt beverages and wine for consumption on the premises of a performing arts facility, one thousand dollars (\$1,000.00).**
- (14) License permitting the sale of all alcoholic beverages consumption on the premises of a performing arts facility, three thousand five hundred dollars (\$3,500.00).**
- (15) Reserved.**

- (16) License permitting the retail sale of package spirituous liquors, five thousand dollars (\$5,000.00).
- (17) License permitting ancillary sales, malt beverages (one hundred dollars (\$100.00)), wine (one hundred dollars (\$100.00)) or both (two hundred dollars (\$200.00)).
- (18) License permitting the sale of all alcoholic beverages for consumption on the premises of a tavern, four thousand dollars (\$4,000.00).
- (19) License permitting the sale of beer and wine only for consumption on the premises of a tavern, twelve hundred fifty dollars (\$1,250.00).
- (20) License permitting the sale of alcoholic beverages for consumption in an open area, fifty dollars (\$50.00).
- ~~(21) License permitting the offering of wine and beer in a package wine tasting room, one hundred dollars (\$100.00).~~
- (22) License permitting the sale of malt beverages in growlers, five hundred dollars (\$500.00).
- (23) Any request to amend any provision of a license granted under this article is subject to an additional one hundred fifty dollar (\$150.00) administrative application fee.
- (24) License permitting retail package malt beverages, five hundred dollars (\$500.00).
- (25) License permitting retail package wine, five hundred dollars (\$500.00).
- (26) License permitting the sale of alcoholic beverages for caterer off the premises by a nonresident, fifty dollars (\$50.00).
- ~~(27) License permitting the sale of package beer and wine in specialty gift shops, one hundred dollars (\$100.00).~~
- (28) Art shop license; two hundred fifty dollars (\$250.00).
- (29) Rental fee for alcoholic beverage sales advertisement signage twenty-five dollars (\$25.00), plus a deposit equivalent to the replacement cost.
- (30) License permitting wholesaler—wine only, five hundred dollars (\$500.00).
- (31) License permitting wholesaler—beer and malt, five hundred dollars (\$500.00).
- (32) License permitting wholesaler—beer/wine combination, seven hundred fifty dollars (\$750.00).
- (33) License permitting wholesaler—spirituous liquors, five thousand dollars (\$5,000.00).

**(34) License permitting brewery for beer/malt beverages, five thousand dollars (\$5,000.00).**

**(35) License permitting special temporary outdoor events, one hundred fifty dollars (\$150.00)**

**IT IS SO ORDAINED THIS \_\_\_ DAY OF \_\_\_\_\_, 2022**

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

Those voting for:

\_\_\_\_\_  
Council Member

\_\_\_\_\_  
Council Member

\_\_\_\_\_  
Council Member

\_\_\_\_\_  
Council Member

\_\_\_\_\_  
Council Member

Those voting against: \_\_\_\_\_

\_\_\_\_\_  
Council Member

\_\_\_\_\_  
Council Member

\_\_\_\_\_  
Council Member

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Council Member

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Council Member

**ORDINANCE  
TO AMEND THE CITY OF DULUTH  
2022 FISCAL YEAR BUDGET**

AN ORDINANCE TO AMEND THE 2022 ANNUAL BUDGET FOR THE CITY OF DULUTH, GEORGIA, IN COMPLIANCE WITH THE LAWS OF THE STATE OF GEORGIA.

THE CITY COUNCIL OF THE CITY OF DULUTH HEREBY ORDAINS, the City of Duluth, Georgia, has previously adopted a budget for the 2022 fiscal year as follows:

Total Revenues:	<u>71,717,695</u>
Operations Expenditures:	<u>31,444,897</u>
Capital Improvement Expenditures:	<u>40,272,798</u>
Total Expenditures:	<u>71,717,695</u>

For a balanced budget in compliance with the laws of the State of Georgia.

**WHEREAS** the City of Duluth awarded a contract for landscaping along the shoulder of Pleasant Hill Road from the Chattahoochee River to McClure Bridge Road as well as the medians of Peachtree Industrial Blvd. from SR 120 to Sugarloaf Parkway to Tri-Scapes Inc. for \$766,270.40; and

**WHEREAS** staff is requesting \$766,271 in unallocated 2017 SPLOST Transportation funds be added to this project; and

**WHEREAS** it is requested \$766,271 in unallocated 2017 SPLOST Transportation funds be added to Landscape Medians – Paved Streets – Infrastructure line item including associated transfers; and

**NOW THEREFORE**, the City of Duluth 2022 Fiscal Year Budget is amended as follows:

Total Revenues & Prior Yr Reserves	<u>72,483,966</u>
Operations Expenditures:	<u>31,444,897</u>
Capital Improvement Expenditures:	<u>41,039,069</u>
Total Expenditures:	<u>72,483,966</u>

**IT IS SO ORDAINED** this \_\_\_\_\_ day of \_\_\_\_\_, **2022**.

\_\_\_\_\_  
Mayor Nancy Harris

Those councilmembers voting in favor:

\_\_\_\_\_  
Charles Jamin Harkness, Post 1

\_\_\_\_\_  
Marline Thomas, Post 2

\_\_\_\_\_  
Kenneth Lamar Doss, Post 3

\_\_\_\_\_  
Manfred Graeder, Post 4

\_\_\_\_\_  
Greg Whitlock, Post 5

Those councilmembers voting in opposition:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ATTEST: \_\_\_\_\_  
Teresa S. Lynn, City Clerk

**ORDINANCE  
TO AMEND THE CITY OF DULUTH  
2022 FISCAL YEAR BUDGET**

AN ORDINANCE TO AMEND THE 2022 ANNUAL BUDGET FOR THE CITY OF DULUTH, GEORGIA, IN COMPLIANCE WITH THE LAWS OF THE STATE OF GEORGIA.

THE CITY COUNCIL OF THE CITY OF DULUTH HEREBY ORDAINS, the City of Duluth, Georgia, has previously adopted a budget for the 2022 fiscal year as follows:

Total Revenues:	<u>72,483,966</u>
Operations Expenditures:	<u>31,444,897</u>
Capital Improvement Expenditures:	<u>41,039,069</u>
Total Expenditures:	<u>72,483,966</u>

For a balanced budget in compliance with the laws of the State of Georgia.

**WHEREAS** the City of Duluth caught on video a tractor trailer driver making a turn into the parking lot behind Pure Taqueria that resulted in extensive damage to a pedestrian railing next to the entrance; and

**WHEREAS** upon contacting the trucking company, Sungor Transportation and the driver they indicated they would make full restitution to the City for the damage which cost \$2,475 to have repaired; and

**WHEREAS** it is requested \$2,475 in reimbursement for the damage be added to the City Manager – City Manager’s Office – General Emergency Repairs line item; and

**NOW THEREFORE**, the City of Duluth 2022 Fiscal Year Budget is amended as follows:

Total Revenues & Prior Yr Reserves	<u>72,486,441</u>
Operations Expenditures:	<u>31,447,372</u>
Capital Improvement Expenditures:	<u>41,039,069</u>
Total Expenditures:	<u>72,486,441</u>

**IT IS SO ORDAINED** this \_\_\_\_\_ day of \_\_\_\_\_, **2022**.



\_\_\_\_\_  
Mayor Nancy Harris

Those councilmembers voting in favor:

\_\_\_\_\_  
Charles Jamin Harkness, Post 1

\_\_\_\_\_  
Marline Thomas, Post 2

\_\_\_\_\_  
Kenneth Lamar Doss, Post 3

\_\_\_\_\_  
Manfred Graeder, Post 4

\_\_\_\_\_  
Greg Whitlock, Post 5

Those councilmembers voting in opposition:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ATTEST: \_\_\_\_\_  
Teresa S. Lynn, City Clerk

**ORDINANCE  
TO AMEND THE CITY OF DULUTH  
2022 FISCAL YEAR BUDGET**

AN ORDINANCE TO AMEND THE 2022 ANNUAL BUDGET FOR THE CITY OF DULUTH, GEORGIA, IN COMPLIANCE WITH THE LAWS OF THE STATE OF GEORGIA.

THE CITY COUNCIL OF THE CITY OF DULUTH HEREBY ORDAINS, the City of Duluth, Georgia, has previously adopted a budget for the 2022 fiscal year as follows:

Total Revenues:	<u>72,486,441</u>
Operations Expenditures:	<u>31,447,372</u>
Capital Improvement Expenditures:	<u>41,039,069</u>
Total Expenditures:	<u>72,486,441</u>

For a balanced budget in compliance with the laws of the State of Georgia.

**WHEREAS** the City of Duluth had a police officer who was seriously injured in an auto accident that will a great amount of medical treatment and related expense for the City's Workers' Compensation Fund; and

**WHEREAS** the City is covered by a Excess Workers' Compensation and Liability Policy with a maximum exposure of \$650,000 which staff anticipate to incur with this claim; and

**WHEREAS** it is requested \$650,000 in Workers Compensation prior year reserves be added to the Workers' Compensation – Risk Management – Claims Police Uniform line item; and

**NOW THEREFORE**, the City of Duluth 2022 Fiscal Year Budget is amended as follows:

Total Revenues & Prior Yr Reserves	<u>73,136,441</u>
Operations Expenditures:	<u>32,097,372</u>
Capital Improvement Expenditures:	<u>41,039,069</u>
Total Expenditures:	<u>73,136,441</u>

**IT IS SO ORDAINED** this \_\_\_\_\_ day of \_\_\_\_\_, **2022**.

\_\_\_\_\_  
Mayor Nancy Harris

Those councilmembers voting in favor:

\_\_\_\_\_  
Charles Jamin Harkness, Post 1

\_\_\_\_\_  
Marline Thomas, Post 2

\_\_\_\_\_  
Kenneth Lamar Doss, Post 3

\_\_\_\_\_  
Manfred Graeder, Post 4

\_\_\_\_\_  
Greg Whitlock, Post 5

Those councilmembers voting in opposition:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ATTEST: \_\_\_\_\_  
Teresa S. Lynn, City Clerk

**ORDINANCE  
TO AMEND THE CITY OF DULUTH  
2022 FISCAL YEAR BUDGET**

AN ORDINANCE TO AMEND THE 2022 ANNUAL BUDGET FOR THE CITY OF DULUTH, GEORGIA, IN COMPLIANCE WITH THE LAWS OF THE STATE OF GEORGIA.

THE CITY COUNCIL OF THE CITY OF DULUTH HEREBY ORDAINS, the City of Duluth, Georgia, has previously adopted a budget for the 2022 fiscal year as follows:

Total Revenues:	<u>72,136,441</u>
Operations Expenditures:	<u>32,097,372</u>
Capital Improvement Expenditures:	<u>41,039,069</u>
Total Expenditures:	<u>73,136,441</u>

For a balanced budget in compliance with the laws of the State of Georgia.

**WHEREAS** the City of Duluth staff requested and received \$50,000 in SPLOST funding to apply for a Transportation Alternative Projects (TAP) Grant for pedestrian enhancement to Pine Needle Drive; and

**WHEREAS** the staff estimate of \$50,000 was based on a best estimate of the time necessary to complete the application process, however this estimate was slightly off and an additional \$5,100 in SPLOST funding is needed for the project; and

**WHEREAS** it is requested \$5,100 in 2014 SPLOST funds be added to the Pine Needle Drive Pedestrian – Sidewalk & Crosswalk – Professional Services line item; and

**NOW THEREFORE**, the City of Duluth 2022 Fiscal Year Budget is amended as follows:

Total Revenues & Prior Yr Reserves	<u>73,141,541</u>
Operations Expenditures:	<u>32,097,372</u>
Capital Improvement Expenditures:	<u>41,044,169</u>
Total Expenditures:	<u>73,141,541</u>

**IT IS SO ORDAINED** this \_\_\_\_\_ day of \_\_\_\_\_, **2022**.

\_\_\_\_\_  
Mayor Nancy Harris

Those councilmembers voting in favor:

\_\_\_\_\_  
Charles Jamin Harkness, Post 1

\_\_\_\_\_  
Marline Thomas, Post 2

\_\_\_\_\_  
Kenneth Lamar Doss, Post 3

\_\_\_\_\_  
Manfred Graeder, Post 4

\_\_\_\_\_  
Greg Whitlock, Post 5

Those councilmembers voting in opposition:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ATTEST: \_\_\_\_\_  
Teresa S. Lynn, City Clerk

**ORDINANCE  
TO AMEND THE CITY OF DULUTH  
2022 FISCAL YEAR BUDGET**

AN ORDINANCE TO AMEND THE 2022 ANNUAL BUDGET FOR THE CITY OF DULUTH, GEORGIA, IN COMPLIANCE WITH THE LAWS OF THE STATE OF GEORGIA.

THE CITY COUNCIL OF THE CITY OF DULUTH HEREBY ORDAINS, the City of Duluth, Georgia, has previously adopted a budget for the 2022 fiscal year as follows:

Total Revenues:	<u>72,141,541</u>
Operations Expenditures:	<u>32,097,372</u>
Capital Improvement Expenditures:	<u>41,044,169</u>
Total Expenditures:	<u>73,141,541</u>

For a balanced budget in compliance with the laws of the State of Georgia.

**WHEREAS** the City of Duluth received a performance bond from DR Horton for \$56,675 for installation of a sewer line from Gardendale through Hall Circle which staff later determined they did not meet their obligations and hired a third party to complete the installation for \$16,190; and

**WHEREAS** the City is entitled to recoup the cost of completion through reimbursement from the performance bond, with the remaining funds being returned to DR Horton; and

**WHEREAS** it is requested \$16,910 be added to Stormwater Utility Funds – Miscellaneous Revenue and the same to Stormwater Collection & Disposal – Repairs and Maintenance – Drainage line items; and

**NOW THEREFORE**, the City of Duluth 2022 Fiscal Year Budget is amended as follows:

Total Revenues & Prior Yr Reserves	<u>73,157,731</u>
Operations Expenditures:	<u>32,113,562</u>
Capital Improvement Expenditures:	<u>41,044,169</u>
Total Expenditures:	<u>73,157,731</u>

**IT IS SO ORDAINED** this \_\_\_\_\_ day of \_\_\_\_\_, **2022**.

\_\_\_\_\_  
Mayor Nancy Harris

Those councilmembers voting in favor:

\_\_\_\_\_  
Charles Jamin Harkness, Post 1

\_\_\_\_\_  
Marline Thomas, Post 2

\_\_\_\_\_  
Kenneth Lamar Doss, Post 3

\_\_\_\_\_  
Manfred Graeder, Post 4

\_\_\_\_\_  
Greg Whitlock, Post 5

Those councilmembers voting in opposition:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ATTEST: \_\_\_\_\_  
Teresa S. Lynn, City Clerk

CITY OF DULUTH  
MAYOR AND CITY COUNCIL  
Staff Report  
**December 10, 2022**

<b>CASE NUMBER:</b>	Z2021-003
<b>ADDRESS:</b>	0 Peachtree Industrial Boulevard Duluth, Georgia 30096
<b>PARCEL:</b>	R7243 003
<b>CURRENT ZONING:</b>	PUD (Planned Unit Development District)
<b>PROPOSED ZONING:</b>	PUD with modified Master Concept Plan
<b>ACREAGE:</b>	+/- 11.35 Acres
<b>REQUEST:</b>	Modified rezoning to amend the approved Master Concept Plan. Development will still contain 51 single-family attached dwelling units.
<b>OWNER:</b>	Riversong Land Investments, LLC 10500 Belladrum Johns Creek, GA 30022
<b>APPLICANT:</b>	Southvine Homes, LLC/Mitch Peevy 6095 Atlanta Highway Ste 100 Flowery Branch, GA 30542

<b>STAFF RECOMMENDATION</b>	<b>Approve with Conditions</b>
<b>PLANNING COMMISSION RECOMMENDATION</b>	<b>Approve with Conditions</b>



## **I. PURPOSE AND DESCRIPTION OF THE REQUEST**

The purpose of the request (Z2021-003) from Mitch Peevy on behalf of the applicant, Southvine Homes LLC, and the property owner Riversong Land Investments LLC, is to obtain approval for a modified rezoning of +/- 11.35 acres of property in Land Lot 243 of the 7<sup>th</sup> District, Gwinnett County, consisting of tax parcel R7243 003. The subject site is currently zoned PUD and therefore has an approved Master Concept Plan. The applicant is requesting the modified rezoning to relocate the location of the entrance drive along a County owned section of Rogers Bridge Road. If approved, the proposed modification will result in amendments to the Master Concept Plan and associated conditions of approval. Maps detailing the location, zoning and character areas of the site are attached hereto as Exhibit "A". The Master Concept Plan is attached hereto as Exhibit "B".

## **II. EXISTING CONDITIONS**

The site is currently undeveloped and has a stream located along the eastern property line. The parcel slopes down from Rogers Bridge Road to the stream. The property is surrounded by a mixture of uses. To the north, across Peachtree Industrial Boulevard, is Windsor Court, a single-family neighborhood zoned PUD. To the east and south is Riverbrooke, a single-family neighborhood zoned PUD. To the west is a medical office and a multi-tenant commercial building containing restaurants, retail uses, and a gas station zoned C-2.

## **III. REVIEW OF THE REQUEST**

### **Unified Development Code**

#### **Article 5 Revisions to Approved PUD**

Section 504.08 of the UDC states any changes that, in the opinion of the Planning and Development Director, result in a development of such intent and character that has not been conceptually approved by the City Council shall require additional approval in accordance with procedures established in the Procedures and Permits Article for a revision of conditions of rezoning approval. Such changes may be additions in the types of land use, increases to square footage or density or any other substantial changes that are inconsistent with the summary report or the master concept plan.

The Applicant has responded to the following Standards Governing the Exercise of Zoning Power.

- a) How the proposed rezoning will permit a use that is suitable in view of the use and development of adjacent and nearby property.
- b) How the proposed rezoning will adversely affect the existing use or usability of adjacent or nearby property.
- c) Whether the property to be affected by a proposed rezoning has a reasonable economic use as currently zoned.
- d) Whether the proposed rezoning will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.
- e) Whether the proposed rezoning is in conformity with the policy and interest of the Comprehensive Plan; Land Use Plan; transportation plans and other plans adopted for guiding development within the City of Duluth.

- f) Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposed rezoning.

The Applicant's responses to the Standards Governing the Exercise of Zoning Power are attached hereto as Exhibit "E".

### **Changes to the Master Concept Plan**

The most consequential modification to the Master Concept Plan is the proposed location of the entrance and the intersection that it creates with Rogers Bridge Road. The City of Duluth Department of Planning and Development regulates separation and spacing of driveways located within the City Limits. Specifically, Section 909.07 of the codes requires that whenever possible, proposed driveways along one side of a street shall coincide with existing or proposed driveways on the opposite side of the street. When the parcel was originally rezoned for residential development, the intent was to align the new residential entrance drive with the existing residential Towne Village Drive across Rogers Bridge Road. However, the driveway was found to not meet sight distance minimums due to a curve on Rogers Bridge Road south of the subject property. Being a County Road, Gwinnett County Department of Transportation (DOT) has reduced the speed limit along this stretch from 40mph to 25mph and provided a statement of support for the proposed location of the entrance drive attached hereto as Exhibit "G".

The Master Concept Plan still proposes 51 front loaded single-family attached dwelling units. The driveways are proposed to be at least twenty-two feet (22') in length measured from the back edge of the sidewalk. Driveways with no sidewalks bisecting them shall have a twenty-two (22) foot minimum driveway distance measure from the back edge of curb to the garage face. This driveway length allows for a larger truck or SUV to park in the driveway without blocking the sidewalk. The proposed relocation results in slightly different site layout of the homes.

The proposed development still contains a single private road which terminates in a cul-de-sac at the amenity area. The street is proposed to be 24' wide and there is a traffic calming measure midway through the street designed to slow vehicles down as they drive down the street. A sidewalk is provided on one side of the street. The proposed site plan adds six on-street guest parking spaces. The current site plan only has eight head-in parking spaces located in the cul-de-sac at the amenity area. Staff believes that the additional six spaces located outside of the amenity area results in more convenient guest parking for the units closer to the entrance of the neighborhood.

Much of the area towards the eastern side of the property will remain undisturbed due to the slope of the property and the required stream buffer.

### **Comprehensive Plan**

In February of 2019, the City of Duluth adopted FORWARDuluth, Plan 2040. Chapter 5: Vision and Aspirations is the chapter within the Plan that staff and the appointed and elected official use when deciding land use decisions. The subject property is located in the Peachtree Retail Corridor Character Area. FORWARDuluth states within the Peachtree Retail Corridor, "Larger tracts of undeveloped land are appropriate for development of low to medium residential with traditional neighborhood design to support retail in the district". The subject parcel is located between intense commercial uses such retail

establishments, restaurants and gas station and an established neighborhood. Single-family attached housing is ideal when transitioning from commercial to single-family detached uses and because of this, the Future Land Use Map (FLUM) within FORWARDuluth shows the subject property as Residential – Medium Density.

Residential – Medium Density is considered developments between 6-12 units per acre. Newer mid density neighborhoods have typically been single-family attached or small lot single-family detached neighborhoods such as Rivers Edge or the Lakes at Sugarloaf. When determining the density of the proposed development, the density is skewed by the amount of undevelopable land and site limitations of the property. Though the proposed development does not meet the density identified in the Future Land Use Map, the perceived density of the site meets the spirit and intent of the FLUM.

#### **IV. PLANNING STAFF REVIEW**

Section 909.07 of the codes requires that whenever possible, proposed driveways along one side of a street shall coincide with existing or proposed driveways on the opposite side of the street. This section of Rogers Bridge Road is owned and maintained by Gwinnett County. Gwinnett DOT has provided formal support for the application that stated their opinion that the proposed driveway is in a safer location than the originally approved driveway due to sight distances. The change in location of the entrance drive only results in minor changes to the Master Concept Plan. The proposed Master Concept Plan still aligns with the spirit and intent of FORWARDuluth.

#### **V. RECOMMENDATION**

On December 6, 2021 Planning Commission recommended **APPROVAL WITH CONDITIONS** Case Number Z2021-003 as presented by staff.

Staff recommends **APPROVAL WITH CONDITIONS** for Case Number Z2021-003.

#### **EXHIBITS**

- A: Maps
- B: Master Concept Plan
- C: Proposed Building Elevations
- D: Conditions of Approval
- E: Applicant's Responses to the Standards Governing the Exercise of Zoning Power
- F: Public Hearing Advertisement/Public Notice
- G: Letter of Support for Driveway Location from Gwinnett DOT




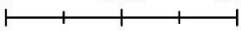

**Exhibit "A"**  
**Maps**  
 Character Area Map



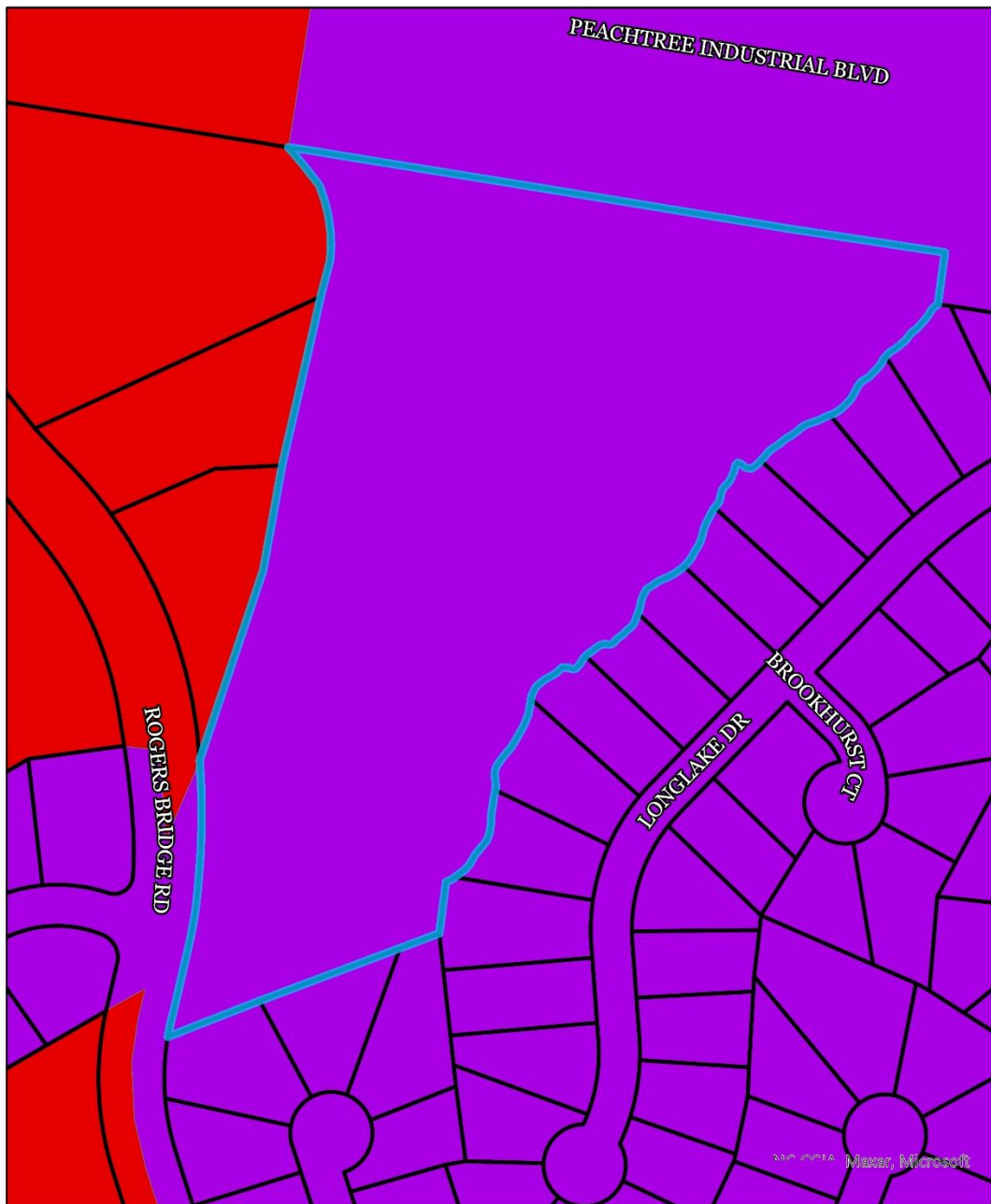
Z2021-003 Rezoning Application		Planning Commission Date: 12/06/2021 City Council Date: 01/10/2022		<ul style="list-style-type: none"> <li><span style="border: 1px solid black; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> Parcel Lines</li> <li><span style="background-color: #d3d3d3; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> Existing Suburban Residential</li> <li><span style="background-color: #ffcccc; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> Peachtree Retail Corridor</li> <li><span style="border: 2px solid cyan; display: inline-block; width: 15px; height: 10px; margin-right: 5px;"></span> Chattahoochee Residential District</li> </ul>
From PUD	To PUD	Tax Parcel(s) R7243 003		
City of Duluth   Georgia Planning & Development   GIS		0      0.03      0.05 Miles 		N 

Parcel Location



Z2021-003 Rezoning Application		Planning Commission Date: 12/06/2021 City Council Date: 01/10/2022	 Parcel Lines
From PUD	To PUD	Tax Parcel(s) R7243 003	 Duluth City Limits
 City of Duluth   Georgia Planning & Development   GIS		0      0.03      0.05 Miles 	 Subject Site

Zoning Map



Z2021-003 Rezoning Application		Planning Commission Date: 12/06/2021 City Council Date: 01/10/2022		Parcel Lines
From PUD	To PUD	Tax Parcel(s)	R7243 003	<b>Zoning</b>
City of Duluth   Georgia Planning & Development   GIS		0      0.03      0.05 Miles		PUD C-2



**Exhibit "C"**  
**Proposed Building Elevations**

Product





# Product



RIGHT SIDE ELEVATION



LEFT SIDE ELEVATION

# Product

Updated Color &  
Elevation Options





# Community Features



# Product



## **Exhibit "D"**

### **Conditions of Approval**

#### **General**

1. The subject property shall be developed in accordance with the Master Concept Plan dated December 2021 and all applicable exhibits except as modified by the conditions contained herein on file in the office of the Planning and Development Department.
2. All conditions shall be shown on the final plat.
3. All requirements imposed under this Ordinance shall be the standards of the development regardless of any change in ownership.
4. The residential development shall be subject to protective covenants of the homeowner association as approved by the Planning and Development Department and recorded in the Gwinnett County Clerk of Court, prior to the issuance of any building permits. In the protective covenants, there shall be a restriction stating that no more than 5% of the residential dwellings may be leased or rented at any one time. In addition to the 5% of leasable lots, the Homeowners Board shall be empowered to allow reasonable leasing for undue hardship so long as no more than 10% of all lots are leased at any given time.
5. The final plat shall include a note identifying that the City of Duluth has no responsibility to build, improve, maintain or otherwise service the private roads, drainage improvements and other appurtenances contained within the development.
6. Builder shall incorporate a purchaser's acknowledgement of private roads and drainage maintenance responsibilities within every purchase and sales agreement for lots or new homes within the development.

#### **Uses and Intensities**

7. The use shall be limited to a maximum of fifty-one (51) attached single-family homes with a maximum density not to exceed 5 units per acre. The uses shall also include amenities and open spaces as shown on the Master Concept Plan and exhibits provided by the applicant.
8. The minimum residential heated floor area per dwelling unit shall be 1,800 square feet.

#### **Architecture and Neighborhood Design**

9. The buildings within the development shall be designed in general accordance with the elevations as shown in Exhibit "C" except as modified by the conditions contained herein by incorporating the following:

All façades shall be designed to incorporate the following materials: brick, stone, cementitious siding, cedar shake, or a mixture thereof. Split-faced concrete block, vinyl, stucco, EIFS and metal siding shall be prohibited. All front, side and rear elevations shall be constructed with a brick or stone water table extending from the ground to the level of the main floor, no less than twenty-four inches (24") tall.

No two adjacent units may have identical building elevations.

Architectural breaks in the horizontal plane shall be incorporated throughout the development to delineate floors within units.

All garage doors shall have decorative design treatments as shown in Exhibit "C". A variety of architectural features shall be incorporated throughout the development around garage doors to soften their appearance.

Final building plans, including elevations and materials, for the development shall be submitted to and approved by the Department of Planning and Development prior to the issuance of any building permits.

10. Residential driveways shall be scored and finished with appropriate joints that add to the aesthetic nature of the development and serve as a measure to prevent uncontrolled cracking and damage to driveways. The scoring and finishing details shall be submitted with each building permit. With the exception of tapered aprons, driveway widths shall not be expanded beyond the width of the garage.
11. All units shall have a twenty-two foot (22') minimum driveway distance measured from the back edge of sidewalk to the garage face. Driveways with no sidewalks bisecting them shall have a twenty-two foot (22') minimum driveway distance measure from the back edge of curb to the garage face.
12. All retaining walls, as needed, shall be constructed of interlocking masonry block, brick or other decorative material as approved by the Planning and Development Department. Timber walls are prohibited. All walls shall meet all City design standards and must be included in the site development plans. All walls require separate review and permit.
13. Developer shall provide underground utilities (power, telecommunication, etc.) throughout the entire development. When feasible, utility meters, power transformers, air conditioner units, etc. shall be located in the rear of homes and screened from view of the streets. Placement of utilities shall be designed to maximize the quality and quantity of landscaping visible from the street and should not be placed in areas that limit opportunities for improved streetscapes.

### **Landscape & Fencing**

14. Developer shall submit an overall landscape plan for review and approval by the Planning and Development Department prior to the issuance of any development permits.
15. An enhanced buffer shall be included along the Rogers Bridge Road frontage to screen the side and rear elevations from the road.
16. The Developer shall install sod within all front, side and rear yards.

17. Developer shall construct a minimum six-foot-high fence separating the proposed residential development from non-residential land uses and major roadways, such as Peachtree Industrial Blvd and Rogers Bridge Road. Location and design of said fence shall be approved by the Director of Planning and Development prior to the issuance of a Land Development Permit.

### **Transportation, Roadways & Parking**

18. All streets, alleys, parking areas and roadways shall be constructed to public street and alley standards found in the City of Duluth Unified Development Code. Said streets, alleys, parking areas and roadways shall be privately owned and maintained by the homeowners association and kept in good repair, free from defects in paving or striping, at all times.
19. Sidewalks shall be constructed by the Developer consistent with the locations as shown on the Master Concept Plan attached hereto as Exhibit "B". Specifically, sidewalks shall be a minimum of four feet (4') in width along the private drive. The sidewalk along Rogers Bridge Road shall be a minimum of five (5') in width.
20. The Developer shall gain approval from the City of Duluth and Gwinnett Department of Transportation concerning driveway access to Rogers Bridge Road prior to the issuance of any development permits. Off-site transportation improvements may include, but are not limited to, deceleration lanes, acceleration lanes, dedicated turn lanes, intersection signal, paving and/or striping as required by the City of Duluth and/or Gwinnett County Department of Transportation. Improvements that are necessary as a result of this development and/or the driveway location shall be the responsibility of the Developer.
21. Access gates may be installed at locations as shown on Exhibit "B". Should access gates be used, they must be electronic and programmable. An operational plan for the access gates shall be submitted to the City of Duluth and approved by the Department of Planning and Development prior to the issuance of any development permits. Said plan shall identify, at a minimum, a strategy for preventing car stacking and should incorporate a plan for ease of access during peak traffic hours. The homeowner's association shall be responsible for administering the approved plan.
22. Guest parking shall be provided in the location shown on Exhibit "B".

### **Street Lighting and Signage**

23. Developer shall install decorative street lighting within the development. A lighting plan showing placement of lights and elevations of lighting equipment must be approved by the Planning and Development Department prior to the issuance of any development permits. The owner shall be responsible for the purchase and installation of all lighting equipment and infrastructure. The City will not be responsible for assuming any leasing agreement or payments for any lighting equipment or infrastructure.
24. A master signage plan shall be submitted to and approved by the Planning and Development Department prior to the issuance of any building permits.



**Exhibit “E”**  
**Applicant’s Responses to the Standards Governing the Exercise of Zoning Power**

**REZONING AND SPECIAL USE PERMIT APPLICANT'S RESPONSE**

STANDARDS GOVERNING EXERCISE OF THE ZONING POWER

To further demonstrate that the proposed rezoning and land use is consistent with the intent of the zoning ordinance and comprehensive plan, the applicant submits its response to the Standards Governing Exercise of the Zoning Power as follows:

- (A) **Whether the proposed modification will permit a use that is suitable in view of the use and development of adjacent and nearby property:**  
 No change in the number of units is being proposed, the only real change is the location of the entrance onto Rogers Bridge Road. Thus, the use is suitable.
- (B) **Whether the proposed modification will adversely affect the existing use or usability of adjacent or nearby property:**  
 The proposed rezoning will not adversely affect the use of the surrounding properties. The proposed use is consistent with the area and was approved in 2020.
- (C) **Whether the property to be affected by a proposed modification has a reasonable economic use as currently zoned:**  
 The proposed modification is for a safer access to Rodgers Bridge Road and no zoning change is proposed.
- (D) **Whether the proposed modification will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools:**  
 The proposed development will not result in an excessive use of existing streets, transportation facilities, utilities, or schools.
- (E) **Whether the proposed modification is in conformity with the policy and intent of the Comprehensive Plan; Land Use Plan; transportation plans and other plans adopted for guiding development within the City of Duluth:**  
 The modification is to comply with the requirements of the Gwinnett DOT for a safe access point to Rodgers Bridge Road.
- (F) **Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposed modification:**  
 Please see Letter of Intent

### Exhibit "F" Public Notice



GWINNETT DAILY POST  
 SCNI  
 P.O. BOX 603  
 LAWRENCEVILLE GA 30046  
 (770) 963-9205

ORDER CONFIRMATION

Salesperson: GWINNETT LEGALS Printed at 12/08/21 10:54 by tpart-lv

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 Acct #: 102244 Ad #: 56207 Status: New WHOLD

DULUTH, CITY OF (LEGAL ADS) 3167 MAIN ST DULUTH GA 30096  Contact: DULUTHCITYOFLEGALADS Phone: (770) 476-1790 Fax#: (770) 814-3008 Email: accountspayable@duluthga.net Agency:	Start: ***** Stop: ***** Times Ord: 0 Times Run: *** LGL 1.00 X 89.00 Words: 400 Total LGL 89.00 Class: 0934 ZONING Rate: L934 Cost: 0.00 Ad Descrpt: Z2021-003 Descr Cont: CITY OF DULUTH NOTICE OF Given by: * P.O. #: Created: tpart 12/08/21 10:46 Last Changed: tpart 12/08/21 10:54
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 PUB ZONE EDT TP RUN DATES  
 GDP A 95 S  
 GINT A 102 S  
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AUTHORIZATION

Under this agreement rates are subject to change with 30 days notice. In the event of a cancellation before schedule completion, I understand that the rate charged will be based upon the rate for the number of insertions used.

\_\_\_\_\_  
 Name (print or type)

\_\_\_\_\_  
 Name (signature)

(CONTINUED ON NEXT PAGE)

GWINNETT DAILY POST  
SCNI  
P.O. BOX 603  
LAWRENCEVILLE GA 30046  
(770) 963-9205

ORDER CONFIRMATION (CONTINUED)

Salesperson: GWINNETT LEGALS

Printed at 12/08/21 10:54 by tpart-lv

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Acct #: 102244

Ad #: 56207

Status: New WHOLD WHOI

**CITY OF DULUTH  
NOTICE OF PUBLIC  
HEARING**

NOTICE IS HEREBY GIVEN that a public hearing will be held before the City of City Council to consider a modified rezoning request from Southvine Homes LLC, on approximately 11.06 acres of property in Land Lot 243, 7th District, Gwinnett County, located at 0 Rogers Bridge Road consisting of tax parcel 7243 003. The modified rezoning request is to change the currently approved site plan to allow for the development of a single-family attached neighborhood consisting of 51 dwellings.

The public is invited to attend this hearing before the City Council on the proposed modified rezoning. The meeting date, place and time regarding this matter are as follows:

**WHEN:**  
January 10, 2022 - 6:00 p.m.

**WHERE:**  
City Hall Council Chambers  
3167 Main Street  
Duluth, GA 30096

PERSONS INTERESTED IN THIS MATTER are invited to review the proposed modified rezoning, which is on file with the Department of Planning & Development of the City of Duluth and to attend the public hearing at the date, time and place provided in this notice, to express their opinion on this matter. Written comments may also be received in lieu of testimony during the public hearing. Written comments may be sent to the following address:

City of Duluth  
ATTN: Anna Zandt  
3167 Main Street  
Duluth, GA 30096

OR  
Email: azandt@duluth-ga.net

For more information, contact Anna Zandt, Planning & Development, at (770) 476-1790.

\*\*\*\*\*  
In compliance with the Americans with Disabilities Act of 1990, the City of Duluth is committed to providing reasonable accommodations for a person with a disability. Please contact Teresa Lynn at (770) 476-3434 if special program accommodations are necessary and/or if program information is needed in an alternative format. Special requests must be made in a reasonable amount of time in order that accommodations can be arranged.  
934-56207 12/12, 2021

**Exhibit "G"**  
**Letter of Support for Driveway Location from Gwinnett DOT**



GWINNETT COUNTY  
DEPARTMENT OF TRANSPORTATION  
PROGRAM DELIVERY

446 West Crogan Street, Suite 410 | Lawrenceville, GA 30046-2440  
O: 770.822.7480  
GwinnettCounty.com

July 21, 2021

Kyle Bowen, P.E.  
Thomas & Hutton  
5074 Bristol Industrial Way, Ste. A  
Buford, GA 30518

Dear Mr. Bowen,

Gwinnett DOT is in agreement that alignment of the proposed street with the existing Old Towne Parkway would greatly reduce the visibility of traffic approaching your development. The offset alignment would maximize your sight distance visibility and would not create an interlocking left situation.

Sincerely,

A handwritten signature in black ink, appearing to read 'Michael Johnson', positioned above the printed name.

Michael Johnson

**ORDINANCE NO. 02022-03  
CITY OF DULUTH  
REZONING OF THE SOUTHVINE HOMES PROPERTY ON ROGERS BRIDGE ROAD**

**AN ORDINANCE FOR THE REZONING OF ±11.35 ACRES OF PROPERTY IN LAND LOT 243 OF THE 7<sup>TH</sup> DISTRICT, GWINNETT COUNTY CONSISTING OF TAX PARCEL R7234 003. THE PROPERTY, GENERALLY KNOWN AS THE “SOUTHVINE HOMES PROPERTY”, IS LEGALLY DESCRIBED ON THE ATTACHED EXHIBIT “A” AND CONCEPTUALLY SHOWN ON ATTACHED EXHIBIT “B”. THE ORDINANCE PROVIDES FOR FINDINGS, ESTABLISHES CONDITIONS OF APPROVAL AS SHOWN ON ATTACHED EXHIBIT “D”, PROVIDES FOR SEVERABILITY, REPEALS CONFLICTING ORDINANCES, ESTABLISHES AN EFFECTIVE DATE, AND IS FOR ALL OTHER LAWFUL PURPOSES.**

**WHEREAS**, the applicant, Southvine Homes, LLC has filed a complete application (Z2021-003) with the City of Duluth seeking a modified rezoning for the “Southvine Homes Property”. Said modified rezoning plan includes, but is not limited to, an entitlement for the relocation of the development entrance drive along a County owned section of Rogers Bridge Road.

**WHEREAS**, per Article 11 of the Duluth Unified Development Code, a rezoning must be approved by the Governing Body; and

**WHEREAS**, the City of Duluth Planning Commission held a public hearing at the meeting of November 1, 2021, duly noticed as prescribed by law and published in the Gwinnett Daily Post, regarding the application. At the December 6, 2021 meeting, the Planning Commission voted 5-0 recommending approval with conditions as is set forth in the minutes of said meeting; and

**WHEREAS**, the City Council held a public hearing at the meeting of January 10, 2022, duly noticed as prescribed by law and published in the Gwinnett Daily Post, regarding said application, as shall be set forth in the minutes of said meeting.

**NOW THEREFORE**, the City Council of the City of Duluth hereby ordains as follows:

**SECTION 1. FINDINGS.**

Pursuant to Article 11 of the Duluth Unified Development Code, the City Council finds that it is appropriate to approve the rezoning application for the property generally referred to as “Southvine Homes Property”, for the following reasons:

- A. The rezoning is suitable given the use and development of adjacent and nearby properties. The property is surrounded by a mixture of uses. To the north, across Peachtree Industrial Boulevard, is Windsor Court, a single-family neighborhood zoned PUD. To the east and south is Riverbrooke, a single-family neighborhood zoned PUD. To the west is a medical office and a multi-tenant commercial building containing restaurants, retail uses, and a gas station zoned C-2.
- B. The proposed rezoning is not anticipated to adversely affect the existing use or usability of

adjoining or nearby properties.

- C. The proposed rezoning is not anticipated to cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.
- D. The Future Land-Use and Development section and supporting Character Area Map of FORWARDuluth (also known as the Comprehensive Plan) identifies the Character Area of this property as Peachtree Retail Corridor. The proposed modified rezoning plan is consistent with the adopted Comprehensive Plan. The PUD zoning district is appropriate for implementation of the Peachtree Retail Corridor Character Area.

## **SECTION 2. LEGAL DESCRIPTION.**

The property that is subject to this ordinance consists of ±11.35 acres and is legally described on Exhibit “A”, attached hereto. Said Exhibit is incorporated by reference as if fully set forth herein.

## **SECTION 3. MASTER CONCEPT PLAN**

Approval of a modified PUD zoning is subject to the Master Concept Plan attached hereto as Exhibit “B”. Said Exhibit is incorporated by reference as if fully set forth herein.

## **SECTION 4. SEVERABILITY.**

Should any section or provision of this Ordinance or any Ordinance pertaining to the companion applications as identified above be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of this Ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

## **SECTION 5. EFFECTIVE DATE.**

The effective date of this Ordinance shall be upon approval by the City Council of the City of Duluth, Georgia.

## **SECTION 6. REPEALER.**

All conflicting ordinances and conditions are hereby repealed and replaced.

## **ATTACHMENTS:**

Exhibit “A”: Survey and Legal Description

Exhibit “B”: Master Concept Plan

Exhibit “C”: Proposed Building Elevations

Exhibit “D”: Conditions of Approval

Exhibit “E”: Applicant’s Responses to the Standards Governing the Exercise of Zoning Power

Exhibit “F”: Legal Advertisement/Public Notice

Exhibit “G”: Letter of Support for Driveway Location from Gwinnett DOT

{Signatures on the Following Page}

**IT IS SO ORDAINED this 10<sup>th</sup> day of January, 2022.**

Those councilmembers voting in favor:

\_\_\_\_\_  
Nancy Harris, Mayor

\_\_\_\_\_  
Jamin Harkness, Post 1

\_\_\_\_\_  
Marline Thomas, Post 2

\_\_\_\_\_  
Lamar Doss, Post 3

\_\_\_\_\_  
Manfred Graeder, Post 4

\_\_\_\_\_  
Greg Whitlock, Post 5

Those councilmembers voting in opposition:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

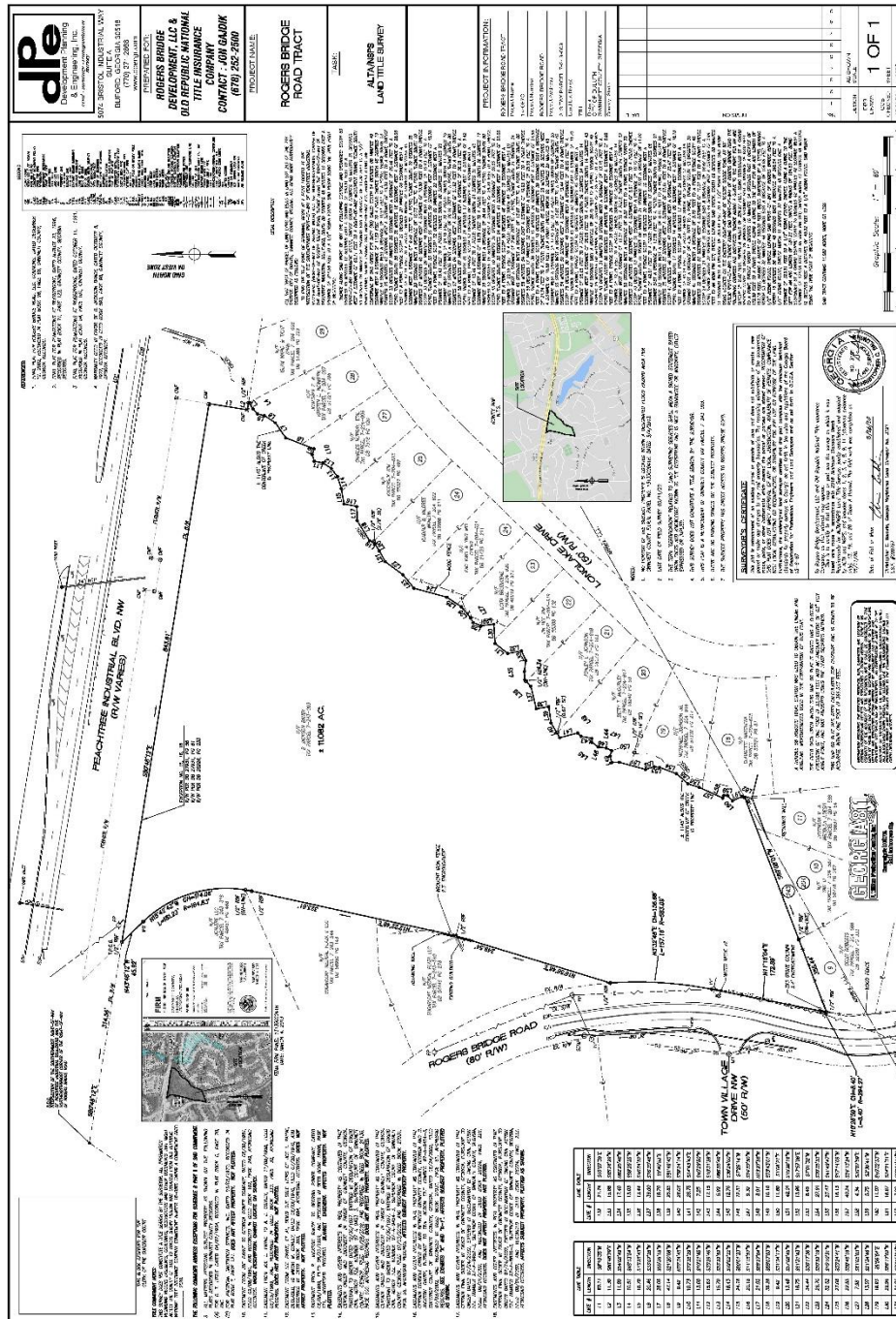
ATTEST

\_\_\_\_\_  
Teresa Lynn, City Clerk



# Exhibit "A"

## Survey and Legal Description



### Legal Description

ALL THAT TRACT of parcel of land lying and being in Land Lot 243 of the 7<sup>th</sup> District, City of Duluth, Gwinnett County, Georgia, and being more particularly described as follows:

To find the TRUE POINT OF BEGINNING, begin at a point located at the intersection of the southernmost right-of-way of Peachtree Industrial Boulevard (right of way of varying width) and the northeasternmost corner of the right-of-way of Rogers Bridge Road; THENCE along the right-of-way of Peachtree Industrial Boulevard, South 80 degrees 48 minutes 12 seconds East a distance of 314.56 feet to a 1/2" rebar found, said rebar being the TRUE POINT OF BEGINNING; THENCE along said right of way the following courses and distances: South 80 degrees 48 minutes 12 seconds East a distance of 843.61 feet to a right-of-way monument found; THENCE South 9 degrees 10 minutes 35 seconds West a distance of 60.11 feet to a right-of-way monument found; THENCE South 80 degrees 48 minutes 29 seconds East a distance of 11.30 feet to a 1/2" rebar found; THENCE leaving said right of way and proceed along the centerline of said creek for sixty (60) calls: South 54 degrees 08 minutes 49 seconds West a distance of 11.89 feet to a point; THENCE South 48 degrees 13 minutes 54 seconds West a distance of 10.51 feet to a point; THENCE South 13 degrees 25 minutes 43 seconds West a distance of 10.70 feet to a point; THENCE South 33 degrees 07 minutes 26 seconds West a distance of 20.46 feet to a point; THENCE South 55 degrees 36 minutes 18 seconds West a distance of 28.06 feet to a point; THENCE South 21 degrees 20 minutes 08 seconds West a distance of 47.14 feet to a point; THENCE North 72 degrees 34 minutes 45 seconds West a distance of 9.42 feet to a point; THENCE South 72 degrees 35 minutes 29 seconds West a distance of 10.73 feet to a point; THENCE South 10 degrees 21 minutes 45 seconds West a distance of 13.60 feet to a point; THENCE South 33 degrees 29 minutes 46 seconds West a distance of 15.63 feet to a point; THENCE South 53 degrees 22 minutes 52 seconds West a distance of 15.70 feet to a point; THENCE South 72 degrees 02 minutes 22 seconds West a distance of 19.43 feet to a point; THENCE South 80 degrees 01 minutes 23 seconds West a distance of 24.18 feet to a point; THENCE South 11 degrees 15 minutes 57 seconds West a distance of 20.18 feet to a point; THENCE South 88 degrees 27 minutes 04 seconds West a distance of 21.92 feet to a point; THENCE South 58 degrees 07 minutes 03 seconds West a distance of 36.28 feet to a point; THENCE South 31 degrees 34 minutes 17 seconds West a distance of 9.42 feet to a point; THENCE South 57 degrees 08 minutes 45 seconds West a distance of 13.46 feet to a point; THENCE South 61 degrees 31 minutes 43 seconds West a distance of 18.75 feet to a point; THENCE South 36 degrees 17 minutes 36 seconds West a distance of 34.44 feet to a point; THENCE South 50 degrees 52 minutes 19 seconds West a distance of 26.70 feet to a point; THENCE South 15 degrees 10 minutes 31 seconds West a distance of 52.52 feet to a point; THENCE South 33 degrees 24 minutes 41 seconds West a distance of 27.06 feet to a point; THENCE South 50 degrees 46 minutes 19 seconds West a distance of 22.55 feet to a point; THENCE South 61 degrees 05 minutes 03 seconds West a distance of 7.98 feet to a point; THENCE South 21 degrees 34 minutes 46 seconds West a distance of 13.07 feet to a point; THENCE South 06 degrees 56 minutes 54 seconds East a distance of 19.93 feet to a point; THENCE South 86 degrees 17 minutes 02 seconds West a distance of 29.96 feet to a point; THENCE South 38 degrees 15 minutes 24 seconds West a distance of 24.96 feet to a point; THENCE South 10 degrees 07 minutes 39 seconds East a distance of 21.74 feet to a point; THENCE South 65 degrees 26 minutes 29 seconds West a distance of 15.88 feet to a point; THENCE North 82 degrees 25 minutes 46 seconds West a distance of 17.40 feet to a point; THENCE South 86 degrees 25 minutes 25 seconds West a distance of 13.03 feet to a point; THENCE South 46 degrees 54 minutes 52 seconds West a distance of 13.44 feet to a point; THENCE South 76 degrees

30 minutes 46 seconds West a distance of 36.00 feet to a point; THENCE South 09 degrees 40 minutes 53 seconds East a distance of 19.70 feet to a point; THENCE South 81 degrees 46 minutes 45 seconds West a distance of 25.65 feet to a point; THENCE South 59 degrees 24 minutes 14 seconds West a distance of 26.06 feet to a point; THENCE South 14 degrees 43 minutes 43 seconds East a distance of 28.75 feet to a point; THENCE South 45 degrees 29 minutes 50 seconds West a distance of 7.25 feet to a point; THENCE South 10 degrees 31 minutes 28 seconds West a distance of 17.15 feet to a point; THENCE North 86 degrees 55 minutes 49 seconds West a distance of 5.92 feet to a point; THENCE South 36 degrees 24 minutes 00 seconds West a distance of 12.76 feet to a point; THENCE South 07 degrees 26 minutes 14 seconds West a distance of 12.31 feet to a point; THENCE South 24 degrees 52 minutes 50 seconds West a distance of 9.32 feet to a point; THENCE North 73 degrees 27 minutes 56 seconds West a distance of 8.91 feet to a point; THENCE South 73 degrees 43 minutes 01 seconds West a distance of 10.10 feet to a point; THENCE South 01 degree 08 minutes 21 seconds East a distance of 11.60 feet to a point; THENCE South 15 degrees 28 minutes 16 seconds West a distance of 42.01 feet to a point; THENCE South 17 degrees 57 minutes 06 seconds East a distance of 13.96 feet to a point; THENCE South 07 degrees 01 minutes 32 seconds West a distance of 8.45 feet to a point; THENCE South 20 degrees 35 minutes 33 seconds West a distance of 27.91 feet to a point; THENCE South 41 degrees 49 minutes 47 seconds West a distance of 23.47 feet to a point; THENCE South 17 degrees 14 minutes 09 seconds West a distance of 18.13 feet to a point; THENCE South 24 degrees 13 minutes 24 seconds West a distance of 40.24 feet to a point; THENCE South 70 degrees 07 minutes 59 seconds East a distance of 4.34 feet to a point; THENCE South 3 degrees 30 minutes 41 seconds West a distance of 5.75 feet to a point; THENCE South 46 degrees 32 minutes 53 seconds West a distance of 11.07 feet to a point; THENCE South 24 degrees 21 minutes 31 seconds East a distance of 16.67 feet to a point; THENCE South 22 degrees 04 minutes 44 seconds West a distance of 3.99 feet to an iron pin set; THENCE leaving said creek, South 69 degrees 08 minutes 01 seconds West a distance of 355.44 feet to a 1/2" rebar found, said rebar being located on the easterly right-of-way of Rogers Bridge Road, an 80' public right-of-way; THENCE along said right-of-way of Rogers Bridge Road the following courses and distances: THENCE along a curve to the right for an arc length of 8.40 feet, having a radius of 294.27 feet, being subtended by a chord bearing North 10 degrees 26 minutes 59 seconds East a distance of 8.40 feet to a point; THENCE North 11 degrees 16 minutes 04 seconds East a distance of 172.89 feet to a point; THENCE along a curve to the left for an arc length of 157.16 feet, having a radius of 583.09 feet, being subtended by a chord bearing North 03 degrees 32 minutes 48 seconds East a distance of 156.68 feet to a 1/2" rebar found; THENCE leaving said right-of-way of Rogers Bridge Road, North 16 degrees 56 minutes 48 seconds East a distance of 249.54 feet to a 1/2" rebar found; THENCE North 12 degrees 22 minutes 48 seconds East a distance of 323.61 feet to a 1/2" rebar found; THENCE along a curve to the left for an arc length of 181.23 feet, having a radius of 184.83 feet, being subtended by a chord bearing North 15 degrees 42 minutes 42 seconds West a distance of 174.06 feet to an iron pin set; THENCE North 43 degrees 48 minutes 12 seconds West a distance of 45.92 feet to a 1/2" rebar found, said rebar being the TRUE POINT OF BEGINNING.

Said tract contains 11.082 acres, more or less.

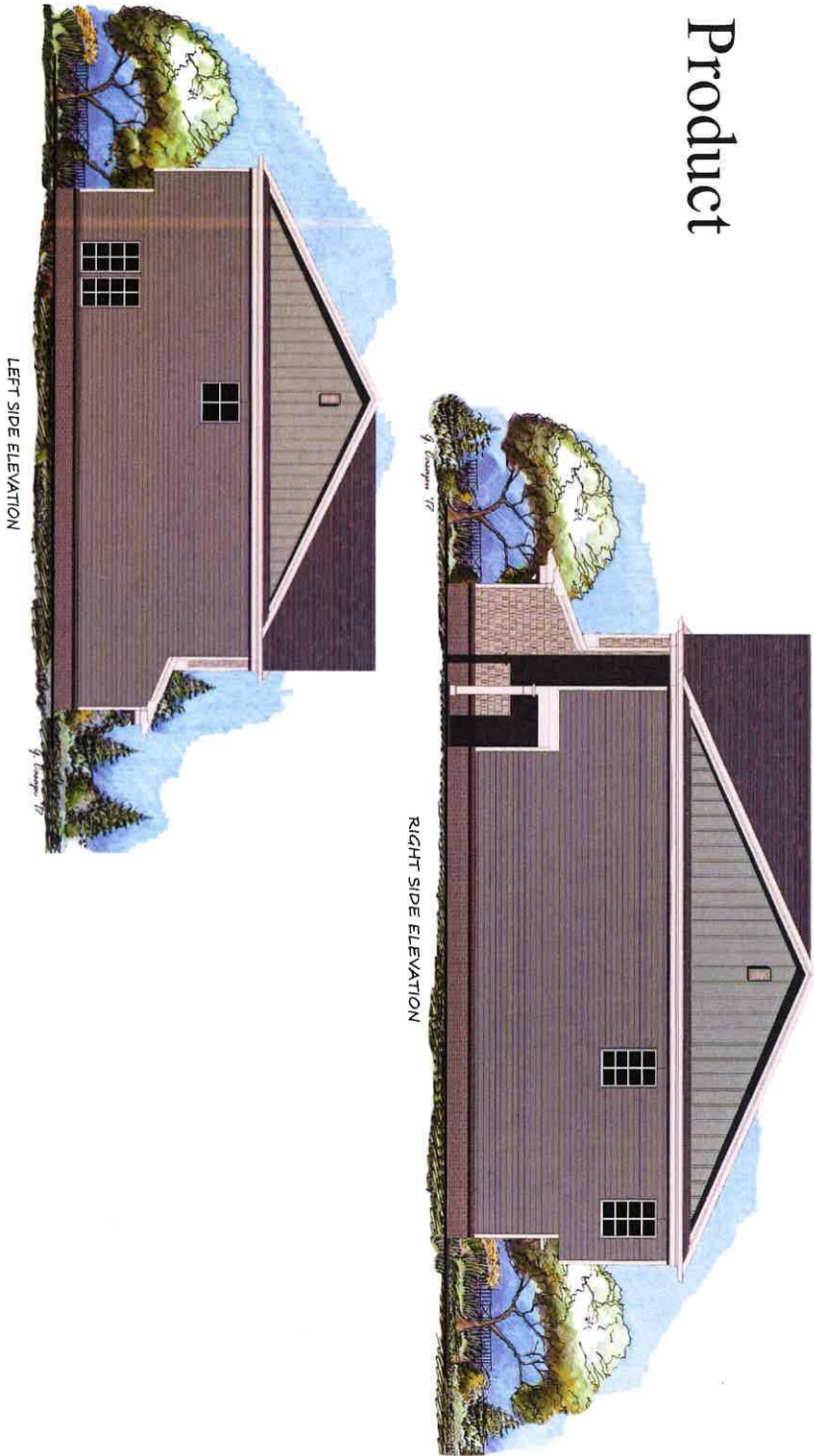


**Exhibit "C"**  
**Proposed Building Elevations**

Product



# Product



# Product

Updated Color &  
Elevation Options



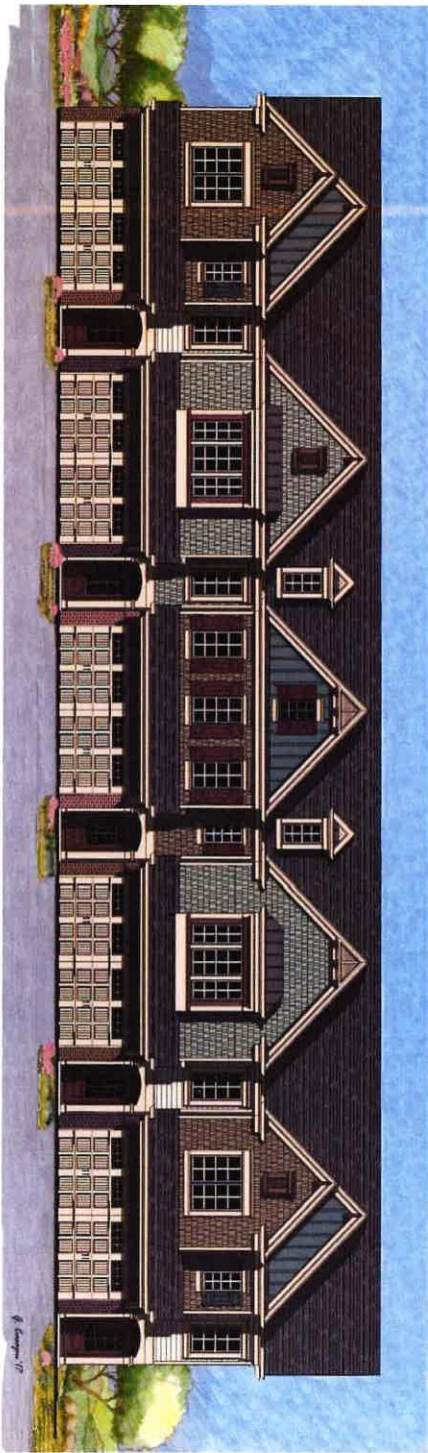




# Community Features



# Product



**Exhibit “D”**  
Conditions of Approval

**General**

1. The subject property shall be developed in accordance with the Master Concept Plan dated December 2021 and all applicable exhibits except as modified by the conditions contained herein on file in the office of the Planning and Development Department.
2. All conditions shall be shown on the final plat.
3. All requirements imposed under this Ordinance shall be the standards of the development regardless of any change in ownership.
4. The residential development shall be subject to protective covenants of the homeowner association as approved by the Planning and Development Department and recorded in the Gwinnett County Clerk of Court, prior to the issuance of any building permits. In the protective covenants, there shall be a restriction stating that no more than 5% of the residential dwellings may be leased or rented at any one time. In addition to the 5% of leasable lots, the Homeowners Board shall be empowered to allow reasonable leasing for undue hardship so long as no more than 10% of all lots are leased at any given time.
5. The final plat shall include a note identifying that the City of Duluth has no responsibility to build, improve, maintain or otherwise service the private roads, drainage improvements and other appurtenances contained within the development.
6. Builder shall incorporate a purchaser’s acknowledgement of private roads and drainage maintenance responsibilities within every purchase and sales agreement for lots or new homes within the development.

**Uses and Intensities**

7. The use shall be limited to a maximum of fifty-one (51) attached single-family homes with a maximum density not to exceed 5 units per acre. The uses shall also include amenities and open spaces as shown on the Master Concept Plan and exhibits provided by the applicant.
8. The minimum residential heated floor area per dwelling unit shall be 1,800 square feet.

**Architecture and Neighborhood Design**

9. The buildings within the development shall be designed in general accordance with the elevations as shown in Exhibit "C" except as modified by the conditions contained herein by incorporating the following:

All façades shall be designed to incorporate the following materials: brick, stone, cementitious siding, cedar shake, or a mixture thereof. Split-faced concrete block, vinyl, stucco, EIFS and metal siding shall be prohibited. All front, side and rear elevations shall be constructed with a brick or stone water table extending from the ground to the level of the main floor, no less than twenty-four inches (24") tall.

No two adjacent units may have identical building elevations.

Architectural breaks in the horizontal plane shall be incorporated throughout the development to delineate floors within units.

All garage doors shall have decorative design treatments as shown in Exhibit "C". A variety of architectural features shall be incorporated throughout the development around garage doors to soften their appearance.

Final building plans, including elevations and materials, for the development shall be submitted to and approved by the Department of Planning and Development prior to the issuance of any building permits.

10. Residential driveways shall be scored and finished with appropriate joints that add to the aesthetic nature of the development and serve as a measure to prevent uncontrolled cracking and damage to driveways. The scoring and finishing details shall be submitted with each building permit. With the exception of tapered aprons, driveway widths shall not be expanded beyond the width of the garage.
11. All units shall have a twenty-two foot (22') minimum driveway distance measured from the back edge of sidewalk to the garage face. Driveways with no sidewalks bisecting them shall have a twenty-two foot (22') minimum driveway distance measure from the back edge of curb to the garage face.
12. All retaining walls, as needed, shall be constructed of interlocking masonry block, brick or other decorative material as approved by the Planning and Development Department. Timber walls are prohibited. All walls shall meet all City design standards and must be included in the site development plans. All walls require separate review and permit.
13. Developer shall provide underground utilities (power, telecommunication, etc.) throughout the entire development. When feasible, utility meters, power transformers, air conditioner units, etc. shall be located in the rear of homes and screened from view of the streets. Placement of utilities shall be designed to maximize the quality and quantity of landscaping visible from the street and should not be placed in areas that limit opportunities for improved streetscapes.

## **Landscape & Fencing**

14. Developer shall submit an overall landscape plan for review and approval by the Planning and Development Department prior to the issuance of any development permits.
15. An enhanced buffer shall be included along the Rogers Bridge Road frontage to screen the side and rear elevations from the road.
16. The Developer shall install sod within all front, side and rear yards.
17. Developer shall construct a minimum six-foot-high fence separating the proposed residential development from non-residential land uses and major roadways, such as Peachtree Industrial Blvd and Rogers Bridge Road. Location and design of said fence shall be approved by the Director of Planning and Development prior to the issuance of a Land Development Permit.

## **Transportation, Roadways & Parking**

18. All streets, alleys, parking areas and roadways shall be constructed to public street and alley standards found in the City of Duluth Unified Development Code. Said streets, alleys, parking areas and roadways shall be privately owned and maintained by the homeowners association and kept in good repair, free from defects in paving or striping, at all times.
19. Sidewalks shall be constructed by the Developer consistent with the locations as shown on the Master Concept Plan attached hereto as Exhibit "B". Specifically, sidewalks shall be a minimum of four feet (4') in width along the private drive. The sidewalk along Rogers Bridge Road shall be a minimum of five (5') in width.
20. The Developer shall gain approval from the City of Duluth and Gwinnett Department of Transportation concerning driveway access to Rogers Bridge Road prior to the issuance of any development permits. Off-site transportation improvements may include, but are not limited to, deceleration lanes, acceleration lanes, dedicated turn lanes, intersection signal, paving and/or striping as required by the City of Duluth and/or Gwinnett County Department of Transportation. Improvements that are necessary as a result of this development and/or the driveway location shall be the responsibility of the Developer.
21. Access gates may be installed at locations as shown on Exhibit "B". Should access gates be used, they must be electronic and programmable. An operational plan for the access gates shall be submitted to the City of Duluth and approved by the Department of Planning and Development prior to the issuance of any development permits. Said plan shall identify, at a minimum, a strategy for preventing car stacking and should incorporate a plan for ease of access during peak traffic hours. The homeowner's association shall be responsible for administering the approved plan.

22. Guest parking shall be provided in the location shown on Exhibit "B".

### **Street Lighting and Signage**

23. Developer shall install decorative street lighting within the development. A lighting plan showing placement of lights and elevations of lighting equipment must be approved by the Planning and Development Department prior to the issuance of any development permits. The owner shall be responsible for the purchase and installation of all lighting equipment and infrastructure. The City will not be responsible for assuming any leasing agreement or payments for any lighting equipment or infrastructure.
24. A master signage plan shall be submitted to and approved by the Planning and Development Department prior to the issuance of any building permits.

## Exhibit “E”

### Applicant’s Responses to the Standards Governing the Exercise of Zoning Power

#### REZONING AND SPECIAL USE PERMIT APPLICANT’S RESPONSE

##### STANDARDS GOVERNING EXERCISE OF THE ZONING POWER

To further demonstrate that the proposed rezoning and land use is consistent with the intent of the zoning ordinance and comprehensive plan, the applicant submits its response to the Standards Governing Exercise of the Zoning Power as follows:

- (A) **Whether the proposed modification will permit a use that is suitable in view of the use and development of adjacent and nearby property:**  
No change in the number of units is being proposed, the only real change is the location of the entrance onto Rogers Bridge Road. Thus, the use is suitable.
- (B) **Whether the proposed modification will adversely affect the existing use or usability of adjacent or nearby property:**  
The proposed rezoning will not adversely affect the use of the surrounding properties. The proposed use is consistent with the area and was approved in 2020.
- (C) **Whether the property to be affected by a proposed modification has a reasonable economic use as currently zoned:**  
The proposed modification is for a safer access to Rogers Bridge Road and no zoning change is proposed.
- (D) **Whether the proposed modification will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools:**  
The proposed development will not result in an excessive use of existing streets, transportation facilities, utilities, or schools.
- (E) **Whether the proposed modification is in conformity with the policy and intent of the Comprehensive Plan; Land Use Plan; transportation plans and other plans adopted for guiding development within the City of Duluth:**  
The modification is to comply with the requirements of the Gwinnett DOT for a safe access point to Rogers Bridge Road.
- (F) **Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposed modification:**

Please see Letter of Intent

### Exhibit "F" Public Notice





### Gwinnett Daily Post

GWINNETT DAILY POST  
SCNI  
P.O. BOX 603  
LAWRENCEVILLE GA 30046  
(770)963-9205

#### ORDER CONFIRMATION

Salesperson: GWINNETT LEGALS Printed at 12/08/21 10:54 by tpart-lv

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Acct #: 102244 Ad #: 56207 Status: New WHOLD

DULUTH, CITY OF (LEGAL ADS) Start: \*\*\*\*\* Stop: \*\*\*\*\*  
3167 MAIN ST Times Ord: 0 Times Run: \*\*\*  
DULUTH GA 30096 LGL 1.00 X 89.00 Words: 400  
Total LGL 89.00  
Class: 0934 ZONING  
Rate: L934 Cost: 0.00  
Ad Descrpt: Z2021-003  
Descr Cont: CITY OF DULUTH NOTICE OF  
Contact: DULUTHCITYOFLEGALADS Given by: \*  
Phone: (770)476-1790 P.O. #:  
Fax#: (770)814-3008 Created: tpart 12/08/21 10:46  
Email: accountspayable@duluthga.net Last Changed: tpart 12/08/21 10:54  
Agency: -----

PUB ZONE EDT TP RUN DATES  
GDP A 95 S  
GINT A 102 S  
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#### AUTHORIZATION

Under this agreement rates are subject to change with 30 days notice. In the event of a cancellation before schedule completion, I understand that the rate charged will be based upon the rate for the number of insertions used.

\_\_\_\_\_  
Name (print or type)

\_\_\_\_\_  
Name (signature)

(CONTINUED ON NEXT PAGE)

GWINNETT DAILY POST  
SCNI  
P.O. BOX 603  
LAWRENCEVILLE GA 30046  
(770)963-9205

ORDER CONFIRMATION (CONTINUED)

Salesperson: GWINNETT LEGALS

Printed at 12/08/21 10:54 by tpart-lv

Acct #: 102244

Ad #: 56207

Status: New WHOLD WHOI

**CITY OF DULUTH  
NOTICE OF PUBLIC  
HEARING**

NOTICE IS HEREBY GIVEN that a public hearing will be held before the City of City Council to consider a modified rezoning request from Southvine Homes LLC, on approximately 11.08 acres of property in Land Lot 243, 7th District, Gwinnett County, located at 0 Rogers Bridge Road consisting of tax parcel 7243 003. The modified rezoning request is to change the currently approved site plan to allow for the development of a single-family attached neighborhood consisting of 51 dwellings.

The public is invited to attend this hearing before the City Council on the proposed modified rezoning. The meeting date, place and time regarding this matter are as follows:

**WHEN:**  
January 10, 2022 - 6:00 p.m.

**WHERE:**  
City Hall Council Chambers  
3167 Main Street  
Duluth, GA 30096

PERSONS INTERESTED IN THIS MATTER are invited to review the proposed modified rezoning, which is on file with the Department of Planning & Development of the City of Duluth and to attend the public hearing at the date, time and place provided in this notice, to express their opinion on this matter. Written comments may also be received in lieu of testimony during the public hearing. Written comments may be sent to the following address:

City of Duluth  
ATTN: Anna Zendt  
3167 Main Street  
Duluth, GA 30096

OR  
Email: azendt@duluth-ga.net

For more information, contact Anna Zendt, Planning & Development, at (770)476-1790.

\*\*\*\*\*  
In compliance with the Americans with Disabilities Act of 1990, the City of Duluth is committed to providing reasonable accommodations for a person with a disability. Please contact Teresa Lynn at (770) 476-3434 if special program accommodations are necessary and/or if program information is needed in an alternative format. Special requests must be made in a reasonable amount of time in order that accommodations can be arranged.  
934-56207 12/12, 2021

**Exhibit "G"**

**Letter of Support for Driveway Location from Gwinnett DOT**



WINNETT COUNTY  
DEPARTMENT OF TRANSPORTATION  
PROGRAM DELIVERY

446 West Crogan Street, Suite 410 | Lawrenceville, GA 30046-2440  
O: 770.822.7480  
GwinnettCounty.com

July 21, 2021

Kyle Bowen, P.E.  
Thomas & Hutton  
5074 Bristol Industrial Way, Ste. A  
Buford, GA 30518

Dear Mr. Bowen,

Gwinnett DOT is in agreement that alignment of the proposed street with the existing Old Towne Parkway would greatly reduce the visibility of traffic approaching your development. The offset alignment would maximize your sight distance visibility and would not create an interlocking left situation.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Johnson".

Michael Johnson

# Duluth



*Ray Williams, Chairman  
Alana Moss, Vice Chairperson  
Niti Gajjar, Secretary*

*Robert Pennington  
Carey Fisher*

**DRAFT MINUTES  
PLANNING COMMISSION  
CITY OF DULUTH, GA  
3167 Main Street  
Duluth, GA 30096**

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**December 6, 2021**

**CITY HALL**

**6:00 pm**

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**COMMISSIONERS PRESENT: Chairman Ray Williams, Vice Chairperson Alana Moss, Secretary Niti Gajjar, Commissioners Bob Pennington and Carey Fisher**

**COMMISSIONERS ABSENT: None**

**STAFF PRESENT: Anna Zendt, Planner**

## **CALL TO ORDER**

Meeting called to Order at 6:00pm

### **I. GENERAL BUSINESS**

None

### **II. APPROVAL OF MINUTES**

1. Approval of the November 1, 2021 Minutes

Chairmen Ray Williams requested a modification to the November minutes, so that the minutes will reflect that the public was given an opportunity to speak. Approval will be revisited at the next planning commission meeting.

### **III. OLD BUSINESS**

None

### **IV. NEW BUSINESS**

#### ***PUBLIC HEARING***

1. Case: Z2021-003  
Applicant: Southvine Homes, LLC/Mitch Peevy 6095 Atlanta Highway Ste 100 Flowery Branch, GA 30542  
Location: 0 Peachtree Industrial Boulevard Duluth, Georgia 30096  
Request: Modified rezoning to amend the approved Master Concept Plan. Development will still contain 51 single-family attached dwelling units.

Miss Zendt presented for Staff. The purpose of the request (Z2021-003) from Mitch Peevy on behalf of the applicant, Southvine Homes LLC, and the property owner Riversong Land Investments LLC, is to obtain approval for a modified rezoning of +/- 11.35 acres of property in Land Lot 243 of

the 7th District, Gwinnett County, consisting of tax parcel R7243 003. The subject site is currently zoned PUD and therefore has an approved Master Concept Plan. The applicant is requesting the modified rezoning to relocate the location of the entrance drive along a County owned section of Rogers Bridge Road. If approved, the proposed modification will result in amendments to the Master Concept Plan and associated conditions of approval.

The parcel slopes down from Rogers Bridge Road to the stream. The property is surrounded by a mixture of uses. To the north, across Peachtree Industrial Boulevard, is Windsor Court, a single-family neighborhood zoned PUD. To the east and south is Riverbrook, a single-family neighborhood zoned PUD. To the west is a medical office and a multi-tenant commercial building containing restaurants, retail uses, and a gas station zoned C-2.

The most consequential modification to the Master Concept Plan is the proposed location of the entrance and the intersection that it creates with Rogers Bridge Road. The City of Duluth Department of Planning and Development regulates separation and spacing of driveways located within the City Limits. Specifically, Section 909.07 of the codes requires that whenever possible, proposed driveways along one side of a street shall coincide with existing or proposed driveways on the opposite side of the street. When the parcel was originally rezoned for residential development, the intent was to align the new residential entrance drive with the existing residential Towne Village Drive across Rogers Bridge Road. However, the driveway was found to not meet sight distance minimums due to a curve on Rogers Bridge Road south of the subject property. Being a County Road, Gwinnett County Department of Transportation (DOT) has reduced the speed limit along this stretch from 40mph to 25mph and provided a statement of support for the proposed location of the entrance drive attached hereto as Exhibit

The Master Concept Plan still proposes 51 front loaded single-family attached dwelling units. The driveways are proposed to be at least twenty-two feet (22) in length measured from the back edge of the sidewalk. Driveways with no sidewalks bisecting them shall have a twenty-two (22) foot minimum driveway distance measure from the back edge of curb to the garage face. This driveway length allows for a larger truck or SUV to park in the driveway without blocking the sidewalk. The proposed relocation results in slightly different site layout of the homes.

The proposed development still contains a single private road which terminates in a cul-de-sac at the amenity area. The street is proposed to be 24' wide and there is a traffic calming measure midway through the street designed to slow vehicles down as they drive down the street. A sidewalk is provided on one side of the street. The proposed site plan adds six on-street guest parking spaces. The current site plan only has eight head-in parking spaces located in the cul-de-sac at the amenity area. Staff believes that the additional six spaces located outside of the amenity area results in more convenient guest parking for the units closer to the entrance of the neighborhood.

Much of the area towards the eastern side of the property will remain undisturbed due to the slope of the property and the required stream buffer.

Section 909.07 of the codes requires that whenever possible, proposed driveways along one side of a street shall coincide with existing or proposed driveways on the opposite side of the street. This section of Rogers Bridge Road is owned and maintained by Gwinnett County. Gwinnett DOT has provided formal support for the application that stated their opinion that the proposed driveway is in a safer location than the originally approved driveway due to sight distances. The change in location of the entrance drive only results in minor changes to the Master Concept Plan. The proposed Master Concept Plan still aligns with the spirit and intent of FORWARDuluth. Staff Recommended Approval with conditions.

Applicant Mitch Peevy spoke on behalf Southvine Homes LLC. The Georgia Department of Transportation is requiring this modification, and the original plan cannot get approval.

Chairman Williams opened the public hearing. No one in the audience spoke in favor or opposition of the request. Chairman Williams closed the public hearing.

Chairmen Williams asked what would trigger the applicant to come back to the Planning Commission for another change.

Miss Zendt answered that any modification related to conditions of approval.

**Motion to Approve case Z2021-003 with conditions by Commissioner Pennington, Seconded by Secretary Gajjar.**

**ALL FOR, Motion Passes 5-0**

## **V. OTHER BUSINESS**

1. Matters from Staff

None

2. Matters from Commission

None

3. Matters from Public

None

## **VI. ADJOURNMENT**

**Motion to Adjourn made by Secretary Gajjar, seconded by Commissioner Fisher.**

**ALL FOR, Motion Passes 5-0**

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2022

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Secretary/Witness